Brix Maritime Company Response to EPA's 104(e) Information Request

Entire response Releasable

Given to BBH 10-8-93

STOCK AND ASSET PURCHASE AGREEMENT

Among

BRIX MARITIME CO. ("BMC"),

PETER J. BRIX,

ROBERT J. DeARMOND,

ELLISON C. MORGAN,
individually and as trustee of
Management Partnership 401(k) Plan

JOSEPH AND SARAH TENNANT,

JOHN B. ALTSTADT

AND

HAYDEN INVESTMENT CORPORATION

(Collectively, "Sellers")

AND

FOSS MARITIME CO. ("FOSS")

August 11, 1993

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SWW000379

STOCK AND ASSET PURCHASE AGREEMENT

AGREEMENT made as of August ___, 1993, by and among BRIX MARITIME CO., a Delaware corporation ("BMC"); PETER J. BRIX, ROBERT J. DeARMOND, ELLISON C. MORGAN, individually and as trustee of Management Partnership 401(k) Plan, JOSEPH and SARAH TENNANT, JOHN B. ALTSTADT, and HAYDEN INVESTMENT CORPORATION (herein, a "Seller" or collectively the "Sellers"); and FOSS MARITIME CO., a Washington corporation ("FOSS").

RECITALS

A. Sellers own all of the issued and outstanding stock of BMC (the "Shares"). BMC and its direct and indirect subsidiaries are engaged in the business of operating marine services including without limitation towing, harbor services, marina and terminal services, barging, and log sorting and rafting on the Columbia River and its tributaries including the Willamette and the Snake Rivers, Lake Coeur d'Alene, Puget Sound and the Pacific Ocean ("the Business").

B. FOSS desires to purchase from Sellers, and Sellers desire to sell to FOSS, the Shares upon the terms and subject to the conditions set forth in this Agreement. In addition, as a condition to Closing, FOSS desires to acquire certain additional assets and rights from certain Sellers and related third parties pursuant to agreements attached hereto as Exhibits D and E plus rights to the Option Corporation identified in Schedule 2.1.1 (collectively, the "Acquired Assets").

NOW, THEREFORE, in consideration of the terms and conditions herein, the parties agree as follows:

ARTICLE I.

PURCHASE AND SALE

1.1 Purchase of Stock. On the Closing Date, as defined in Section 1.4 hereof, Sellers will sell and transfer to FOSS and FOSS will purchase and acquire from each Seller, the number of Shares set forth opposite each Seller's name under Column A of Exhibit A attached hereto.

1.2 Purchase of Assets. On the Closing Date, as defined in Section 1.4 hereof, the Acquired Assets will be transferred to FOSS or its designee.

1.3 Purchase Price.

1.3.1 The aggregate purchase price is $. . , subject to adjustment under Section 1.3.2 (collectively, the "Purchase Price"). The aggregate purchase price is

allocated as follows: $ for the Shares, subject to adjustment under Section 1.3.2; $ for all of the Acquired Assets; $ for the Noncompetition and/or Consulting Agreements (Exhibits C hereto). The parties agree that they will not take any position inconsistent with such allocation in any tax return filed by such party.

1.3.2 The purchase price for the Shares shall be reduced dollar for dollar by the sum of (i) the amount of long-term debt and capital lease obligations (including the current portion of long-term debt and capital lease obligations) (collectively the "Debt") of BMC and the Subsidiaries (as defined in Section 2.1 below) as of the Closing Date (as defined in Section 1.3 below) and (ii) the amount of Debt in excess of normal installment payments that has been pre-paid or otherwise retired by BMC or the Subsidiaries during the period January 1, 1993 through the Closing Date (except $ prepayment relating to the Tug Washington previously disclosed to FOSS), and (iii) the present value at Closing, and computed based upon an 8.27% capitalization rate, of all amounts due Arthur Reidel at Closing under his Consulting Agreement with BMC.

1.4 Closing. The closing of the purchase and sale of the Shares and the Acquired Assets (the "Closing") shall take place at the offices of Garvey, Schubert & Barer, in Portland, Oregon, at 10:00 A.M., local time, on September 15, 1993 or within five (5) business days following satisfaction of the conditions set forth in Sections 4.1.7 and 4.2.11, whichever is later, or at such other place and time as the parties shall mutually agree upon. The date on which the Closing shall occur is the "Closing Date."

1.5 Action at Closing. At the Closing:

1.5.1 Shares. Subject to delivery of the Purchase Price as set forth in Section 1.5.3 below, Sellers will deliver to FOSS the stock certificates representing the Shares, duly endorsed for transfer or accompanied by properly executed stock powers, with all requisite stock transfer stamps affixed thereto at no cost to FOSS. The signatures of Sellers shall be certified by the Secretary of BMC as the signatures of Sellers, and the Shares shall be transferred by Sellers to FOSS free and clear of all liens, claims and encumbrances of any nature whatsoever.

1.5.2 Title Documents. Subject to delivery of the Purchase Price as set forth in Section 1.5.3 below, Sellers will cause to deliver to FOSS the title documents for the Acquired Assets which shall be transferred to FOSS free and clear of all liens, claims and encumbrances of any nature whatsoever.

1.5.3 Purchase Price. Subject to delivery of the Shares and title documents as set forth in Sections 1.5.1 and 1.5.2 above, and subject to escrow of $ of the purchase price for the Shares pursuant to Section 3.1.11, FOSS shall deliver to each Seller a cashier's check or readily available federal funds in the amount set forth under Column B opposite such Seller's name on Exhibit A hereto and will deliver a cashier's check or readily available federal funds in connection with purchase of the Acquired Assets and Non-Competition and/or Consulting Agreements as follows:

$	to Peter J. Brix
$	to Robert J. DeArmond
$	to Ellison C. Morgan
$	to Ellison C. Morgan, as trustee of Management Partnership 401(k) Plan
$	to Ellison C. Morgan, individually and as trustee of Management Partnership 401(k) Plan
$	to Joseph and Sarah Tennant
$	to Joseph Tennant
$	to John B. Altstadt
$	to Hayden Investment Corporation
$	to Tri Ocean Charters, Inc.
$	to Hayden Investors
$	to Knappton Leasing
$	to Enterprise Partners
$	Total

BMC and Sellers shall direct FOSS to pay such portion of the Purchase Price to the United States National Bank of Oregon and such other creditors as shall be necessary to release any security interest of such bank or creditors in the Shares and may direct further payment of a portion of the Purchase Price to be made to United States National Bank of Oregon or other creditors to effect the payment of debt of BMC in order to reduce or eliminate the deduction from the Purchase Price set forth in Section 1.3.2, but only to the extent that FOSS does not waive in writing the provisions of Sections 2.1.9 and 2.1.10 solely as they relate to liens, claims or encumbrances due to Debt which remain upon the properties and assets of BMC or the Acquired Assets at Closing.

1.5.4 Additional Deliveries. Sellers and FOSS shall each deliver all documents required to be delivered pursuant to Article IV.

ARTICLE II.

REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties of Sellers. Sellers, jointly and severally, represent and warrant to FOSS and agree as follows:

2.1.1 Organization; Good Standing; Qualification; Power and Authority.

(a) BMC is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is a citizen of the United States as defined in Section 2 of the Shipping Act of 1916, as amended, for purposes of operation in the coastwise trade, and is duly qualified to do business and is in good standing in each jurisdiction in which the nature of the business conducted or the properties or assets owned or leased by it makes such qualification necessary. BMC has the corporate power and authority to carry on its business as it is now conducted and to own, lease and operate its properties. Sellers have delivered to FOSS complete and correct copies of BMC's certified Certificate of Incorporation and bylaws, as amended and in effect on the date hereof, both certified by BMC's Secretary.

(b) Schedule 2.1.1 lists all of BMC's subsidiaries, joint venture interests, and options to acquire corporations. For purposes of this Agreement, BMC's wholly-owned subsidiaries plus Sortwell, Inc., and Tweed Towing, Inc., will be collectively referred to as the "Subsidiaries" and individually as a "Subsidiary" and the Joint Venture interests will be collectively referred to as the "Joint Ventures" and individually as a "Joint Venture". The options will be referred to as "Option Corporation" and comprise part of the "Acquired Assets." Each Subsidiary, Joint Venture, and Option Corporation is a corporation or partnership, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction designated on Schedule 2.1.1, and has the power and authority to carry on its business as it is now conducted and to own, lease and operate its properties, and is duly qualified to do business and is in good standing in each jurisdiction in which the nature of the business conducted or the properties or assets owned or leased by it makes such qualification necessary. Each Subsidiary, Joint Venture and Option Corporation is a citizen of the United States as defined in Section 2 of the Shipping Act of 1916, as amended, for purposes of operation in the coastwise trade. Schedule 2.1.1 sets forth the authorized, issued and outstanding capital stock of the Subsidiaries and the corporate Joint Ventures and the record owners of such capital stock. Schedule 2.1.1 sets forth the partnership interests of the partnership Joint Ventures. Sellers have delivered to FOSS complete and correct copies of the Articles of Incorporation, Certificate of Incorporation and bylaws or the Partnership Agreement (or equivalent documents or instruments), as amended and in effect on the date hereof, of each Subsidiary and Joint Venture, in each case certified by the Secretary (or managing partner as applicable) of such Subsidiary, Joint Venture or Option Corporation. Except as set forth on Schedule 2.1.1, BMC does not own, directly or indirectly, whether of record or beneficially, any shares of capital stock or other interest in or right to acquire an interest in any corporation, partnership, joint venture, trust or other entity of any nature whatsoever. Any options or other rights to acquire any shares of capital stock or other interest in any corporation, partnership, joint venture, trust or other entity of any nature which are set forth in Schedule 2.1.1, are valid and binding obligations of the parties, enforceable in accordance with their terms and exercise thereof will not (i) result in the termination of or breach of any of the terms or provisions of or result in the acceleration of the performance required by, or constitute a default under any will, deed of trust, trust, employee benefit plan indenture, mortgage, charter, by law, contract, lien, agreement or other instrument or any judgment, decree or order of any federal, state, local or foreign

court, regulatory or other body to which BMC, the Subsidiaries, Option Corporation, or Joint Ventures is a party or by which they may be bound or (ii) violate any statute, rule or regulation applicable to BMC, Option Corporation, the Subsidiaries or Joint Ventures.

2.1.2 Capitalization. The authorized capitalization of BMC consists of 10,000 shares of Common Stock, without par value, of which an aggregate of 4,9[illegible] shares are outstanding and 224 shares are subscribed. At Closing all of the outstanding shares of capital stock of BMC and each Subsidiary and corporate Joint Venture will be validly issued, fully paid and non-assessable. Except as set forth on Schedule 2.1.2, there are no outstanding warrants, options, rights, calls or other commitments of any nature relating to the authorized but unissued shares of capital stock of BMC, Option Corporation or any Subsidiary or corporate Joint Venture, or concerning the authorization, issuance or sale of any other equity securities of BMC, Option Corporation or any Subsidiary or corporate Joint Venture. BMC, directly or indirectly, owns the outstanding shares of capital stock shown in Schedule 2.1.1 of each Subsidiary free and clear of all liens, claims and encumbrances of any nature whatsoever. Except as set forth in Schedule 2.1.2, BMC, directly or indirectly, owns those shares of capital stock of each corporate Joint Venture set forth in Schedule 2.1.1 free and clear of all liens, claims and encumbrances of any nature whatsoever.

2.1.3 Sellers.

(a) Each Seller owns that number of the Shares set forth opposite such Seller's name on Exhibit A hereto and at Closing such Shares shall be free and clear of all liens, claims and encumbrances of any nature whatsoever, and upon delivery to FOSS of the stock certificates representing such number of the Shares as provided in Section 1.4 hereof, FOSS will receive good and valid title to such number of the Shares free and clear of all liens, claims and encumbrances of any nature whatsoever. The Shares constitute all of the issued and outstanding capital stock of BMC.

(b) BMC and each Seller has full right, power and capacity to execute and deliver this Agreement and to consummate the transactions contemplated hereby. Except as set forth in Schedule 2.1.3, all authorizations and approvals necessary in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby by each Seller and BMC have been obtained. This Agreement is a valid and binding obligation of each Seller and BMC enforceable in accordance with its terms, except as performance may be limited by bankruptcy, insolvency, moratorium, or other similar laws in effect from time to time affecting creditors' rights generally or by the principles governing the availability of equitable remedies. Except as set forth in Schedule 2.1.3, neither execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby with or without the lapse of time or the giving of notice or both, will, to best knowledge of Sellers: (i) result in the termination of or any breach of any of the terms or provisions of, result in the acceleration of the performance required by, or constitute a default under, any will, deed of trust, trust, employee benefit plan, indenture, mortgage, charter, by-law, contract, lease, agreement or other instrument, or any judgment, decree or order of any federal, state, local or foreign court, regulatory or other governmental body to which any Seller or BMC is a party or by

which any Seller or BMC or any of their respective assets may be bound, or (ii) violate any statute, rule or regulation applicable to any Seller or BMC or the Subsidiaries.

2.1.4 Financial Statements. Except as set forth on Schedule 2.1.4, the books of account of BMC and the Option Corporation and Subsidiaries have been maintained in accordance with generally accepted accounting principles applied on a consistent basis, and such books and records are correct and complete in all material respects, fairly and accurately reflect the income, expenses, assets and liabilities of BMC, Option Corporation and the Subsidiaries and provide a fair and accurate basis for the preparation of the financial statements and tax returns of BMC and the Option Corporation and Subsidiaries. Sellers have delivered to FOSS copies of the balance sheets of BMC and the Subsidiaries as at each of December 31, 1988, 1989, 1990, 1991 and 1992, and the related statements of income and retained earnings, and changes in financial position for the years then ended, including the respective notes thereto and report on supplementary consolidating information, in each case certified by Coopers & Lybrand, independent certified public accountants, and its unaudited balance sheet as at May 31, 1993, and the related unaudited statements of income and retained earnings for the five months then ended (collectively the "Financials"). Except as set forth in Schedule 2.1.4, the Financials, including the notes thereto, are: (i) correct and complete in all material respects, (ii) in accordance with the books and records of BMC and the Subsidiaries in all material respects, and (iii) fairly present the financial position and the results of the operations and changes in financial position of BMC as at and for the periods indicated, in each case and the Financials are prepared in conformity with generally accepted accounting principles applied on a basis consistent throughout the periods indicated. Since May 31, 1993, there has been no material adverse change in the financial condition, assets, liabilities, earnings, or business of BMC and the Subsidiaries as a whole.

2.1.5 Liabilities. Except as set forth on Schedule 2.1.5 and except as and to the extent reflected or reserved against in BMC's May 31, 1993, balance sheet referred to in Section 2.1.4 hereof (the "Balance Sheet"), and except for (i) liabilities not required to be provided for in a balance sheet prepared in accordance with generally accepted accounting principles consistently applied, and (ii) liabilities in the ordinary course of business since May 31, 1993, neither BMC, the Acquired Assets nor any Subsidiary has any liabilities of any nature whatsoever (whether accrued, absolute, contingent or otherwise), including, without limitation, any tax liabilities of any nature whatsoever, due or to become due, whether (1) incurred in respect of or measured by BMC's or any Subsidiary's income, profits, earnings or dividends for any period ending on or prior to the close of business on May 31, 1993, or (2) arising out of transactions entered into, or any state of facts existing, on or prior thereto.

2.1.6 Taxes.

(a) BMC, each of the Subsidiaries, the Option Corporation and Joint Ventures have filed with all appropriate federal, state, local and foreign authorities all tax returns, reports and tax information required by law, regulation, or otherwise to be filed for all taxable periods for which returns have become due.

(b) All items of gross income required to be shown on any return filed by BMC, Option Corporation or the Subsidiaries have been included and any deductions or credits claimed are allowable in accordance with applicable law and regulations. There are no deficiencies in respect of any such return or in respect of any taxes for which returns are not required or for which returns are required but have not been filed. True and complete copies of all federal and state income tax returns filed by BMC, Option Corporation or any of the Subsidiaries for each of their taxable years ended December 31, 1988, through and including December 31, 1991, respectively, have been previously delivered by Sellers to FOSS.

(c) BMC, the Subsidiaries, Option Corporation and Joint Ventures have paid or made adequate provision for the payment of all taxes, penalties or interest which have or may become due for all taxable periods ending on or prior to the Closing Date or have set aside on their books adequate reserves or accruals therefor without regard to any tax legislation with an enactment date in 1993.

(d) With respect to the Balance Sheet, BMC and the Subsidiaries have charged as expenses amounts sufficient to provide for any tax liability determined by annualizing any income or deduction without regard to any tax legislation with an enactment date in 1993.

(e) No tax return of BMC, the Subsidiaries, or Option Corporation or to the best knowledge of Seller, the Joint Ventures is currently under audit.

(f) There is no agreement which is still in effect that has been executed or filed with the Internal Revenue Service or any other taxing authority extending the period for assessment or collection of any income or other taxes for which BMC, any of the Subsidiaries, the Option Corporation or, to the best knowledge of Sellers, the Joint Ventures may be liable.

(g) There are no pending actions or proceedings by any governmental authority for assessment (other than for property taxes not yet payable) or collection of taxes for which BMC, any of the Subsidiaries, the Option Corporation or, to the Sellers' best knowledge, the Joint Ventures, may be liable, and no claim for assessment or collection of taxes for which BMC, any of the Subsidiaries, the Option Corporation or, to the Seller's best knowledge, the Joint Ventures may be liable has been asserted or, to Sellers' best knowledge, threatened.

(h) All taxes and assessments that BMC, the Option Corporation and the Subsidiaries are required by law to withhold or to collect have been duly withheld and collected, and, to the extent due and payable, have been paid over to the proper government authorities, and all withholdings and collections and all other payments due in connection therewith are duly reflected on the Financials.

(i) Schedule 2.1.6 hereto (except with reference to the Option Corporation which shall be delivered within seven (7) days of the date hereof and shall be

subject to FOSS's written approval, which approval shall not be unreasonably withheld) sets forth for the periods since January 1, 1988, (i) a description of the treatment of any item, including, without limitation, depreciation, which differs between the financial statements of BMC, the Option Corporation and the Subsidiaries and BMC's and the Subsidiaries' and Option Corporation's federal income tax returns, (ii) a list of all elections made on the federal income tax returns of BMC or any of the Subsidiaries and Option Corporation which has the effect of either reducing the basis of any asset below its book value for financial statement purposes or deferring income which would otherwise have been reported on a tax return filed before the date hereof to a tax return to be filed after the date hereof, or which resulted in the allowance of any deduction on a tax return filed prior to the date hereof, which would otherwise have been allowable on a tax return to be filed after the date hereof, (iii) with respect to any corporation which is a member of BMC's affiliated group, a statement of the amount and nature of any excess loss account, deferred intercompany transaction and inventory adjustment as defined in the consolidated return regulations, (iv) any agreement between or among BMC and/or any one or more of the Subsidiaries or Option Corporation and/or any one or more other corporations that are members of the affiliated group of which BMC is a member that allocates between or among the parties thereto any federal, state, county, local or other tax, (v) the names of each corporation, partnership, joint venture, trust or other entity of any nature whatsoever that has been dissolved, liquidated, woundup, sold or otherwise disposed of since January 1, 1988, and in which BMC, the Option Corporation or any Subsidiary owned, directly or indirectly, whether of record and/or beneficially, any shares of capital stock or other interest, and (vi) a list of the tax basis as of December 31, 1992 for all depreciable assets of BMC, the Subsidiaries and the Option Corporation.

2.1.7 Accounts Receivable. Except as set forth on Schedule 2.1.7, the accounts receivable, including, without limitation, notes receivable, trade accounts receivable, intercompany accounts receivable and employee receivables, of BMC, the Subsidiaries and Option Corporation arise from valid transactions in the ordinary course of business and are collectible at the aggregate recorded amounts thereof, less the recorded allowance for doubtful accounts (which is adequate and calculated consistent with past practice), without resort to litigation or extraordinary collection activity. For purposes of the next sentence, Sellers warrant that items 1, 3 and 4 set forth on Schedule 2.1.7 are collectible in the amount of $. . To the extent the aggregate amounts for such items collected exceed or fall short of this amount, the threshold amount in Section 5.2.2 shall be increased or decreased (as applicable) by the amount thereof. Neither BMC nor the Subsidiaries or Option Corporation will have at Closing any accounts receivable due from Hayden Investment Corporation or any of its subsidiaries.

2.1.8 Inventories. All inventory of BMC and the Subsidiaries reflected in the Financial Statements and all inventory of the Option Corporation reflected in its financial statements consists of a quality and quantity usable in the ordinary course of business. The quantities of all inventory are reasonable and adequate for the Business.

2.1.9 Property, Plant & Equipment. Except as disclosed on Schedule 2.1.9(a), all property, plant and equipment owned, leased, or chartered by BMC, the Option

Corporation and the Subsidiaries, or which comprise part of the Acquired Assets, is in good operating condition and repair, ordinary wear and tear excepted (except for damages and casualties adequately insured against for which BMC has received or will receive such proceeds), and substantially conform with all applicable ordinances, regulations and building, zoning and other laws. The assessed value of all real property owned by BMC [redacted] Subsidiaries or which comprise part of the Acquired Assets and which is located in the State of Washington does not exceed $ [redacted]. Schedule 2.1.9(b) lists all vessels of BMC, the Option Corporation, the Subsidiaries and Joint Ventures, and those which comprise part of the Acquired Assets, identifies their documentation under the laws of the United States, the classification and rating of ABS, and licensing. Except as set forth in Schedule 2.1.9(c), all such vessels are in seaworthy condition, are current as to all normal maintenance and overhaul cycles, have their normal complement of equipment, and are suitable for the purposes for which they are employed; provided however, this warranty shall expire at Closing subject to Section 3.2.8. Except as disclosed on Schedule 2.1.9(b), none of the vessels were built or rebuilt outside the United States and none were built in whole or in part with funds provided for under § 607 or Title V of the Merchant Marine Act of 1936. With respect to documented vessels listed on Schedule 2.1.9(b), at Closing Sellers and BMC will deliver to FOSS classification and inspection certificates (for hull and engines) for all vessels, together with U.S. Coast Guard Form 1330 certificates of ownership stating all vessels are free from encumbrances.

2.1.10 Title to Properties; Absence of Liens and Encumbrances, Etc. Except as disclosed in Schedule 2.1.10, BMC, the Option Corporation and each Subsidiary own outright all the properties and assets, real or personal, tangible and intangible, of every nature and description (including, without limitation, those reflected in the Balance Sheet, except as to those since sold or otherwise disposed of in the ordinary course of business) used in their respective businesses, and such properties and assets, as well as the Acquired Assets, upon Closing will be free and clear of all liens, claims and encumbrances of any nature whatsoever. Upon Closing, BMC or the Subsidiaries or Option Corporation will have all easements and rights to all real property, including without limitation, easements for ingress and egress, necessary to conduct the Business.

2.1.11 Compliance with Law. To Sellers' best knowledge, except as set forth in Schedule 2.1.11, (a) BMC, each Subsidiary and Joint Venture and the Acquired Assets have been, and are, in compliance with all licenses, franchises, permits and other authorizations to the extent required by applicable law or governmental authorities in connection with the conduct of the Business as previously operated and now operated; and (b) the Business as presently conducted and the Acquired Assets do not violate any applicable law, order, regulation, standard or requirement, including, without limitation, the Williams-Steiger Occupational Safety and Health Act of 1970, as amended, and laws and regulations governing environmental protection and applicable disposal and pollution standards. Neither Sellers, BMC nor any Subsidiary has received any notice of violation of any applicable regulation, ordinance or other law, order, regulation, standard or requirement relating to the operations or property of BMC or any Subsidiary or Joint Venture or any of the Acquired Assets.

2.1.12 Intellectual Properties. BMC, the Option Corporation and the Subsidiaries own or are licensed or otherwise have the full and exclusive right to use all patents, trademarks, trade names, copyrights, technology, know-how, and processes used in or necessary for the conduct of the Business. Set forth on Schedule 2.1.12 is a complete description of all patents, trademarks, tradenames, and copyrights used by BMC, the Subsidiaries, and Option Corporation all applications therefor, and a list of licenses or other agreements related thereto. Schedule 2.1.12 also lists all agreements relating to technology, know-how or processes which BMC or Subsidiaries or Option Corporation are licensed or authorized to use by others. BMC, Option Corporation or a Subsidiary, as applicable, has the sole and exclusive right to use the patents, trademarks, tradenames, service marks, copyright, technology, know-how and processes referred to on Schedule 2.1.12 and the consummation of the transactions contemplated hereby will not alter or impair such rights. No claims have been asserted or threatened as to the title to or use of any such rights or challenging the validity or effectiveness of any such license and Sellers do not know of any valid basis for any such action. Neither BMC, the Subsidiaries, Option Corporation nor Sellers have performed any act which conflicts with or infringes on any such right of third parties and are not aware of any basis for the assertion of any such conflict or infringement by or against them.

2.1.13 Contracts. Except as set forth in Schedule 2.1.13 hereto, neither BMC nor any Subsidiary or Option Corporation is a party to or bound by any (i) oral or written contract not made in the ordinary course of business (including without limitation any noncompetition, exclusive dealing, or similar agreements affecting present or future operations), (ii) employment contract which is not terminable at will or without cost or other liability to BMC, Option Corporation or any Subsidiary, as the case may be, or any successor to either of them, (iii) contract with any labor union, (iv) lease or charter with respect to any property, real or personal, whether as lessor or lessee with a monthly payment in excess of $1,000, (v) bonus, pension, profit-sharing, retirement, stock purchase, deferred compensation, hospitalization, insurance or other plan providing employee benefits not listed on Schedule 2.1.16, (vi) continuing contract for the future purchase of materials, supplies or equipment, including without limitation, food and fuel, (vii) written contract involving payment by BMC or any Subsidiary or Option Corporation of more than $10,000 or extending beyond December 31, 1993, or otherwise materially affecting the assets or business of BMC or any Subsidiary or Option Corporation, (viii) charter agreements, service or management agreements, (ix) license or agreement relating in whole or in part to trademarks, trade names, trade secrets, or other proprietary information, (x) agreement or arrangement for the sale of any of its assets or the grant of any preferential rights to purchase any of its assets, property or rights or requiring the consent of any party to the transfer thereof, (xi) agreement with respect to any merger or consolidation, or acquisition or sale of a substantial amount of assets, (xii) power of attorney or other instrument or arrangement authorizing anyone to act for or in any way commit BMC or any Subsidiary or Option Corporation to any action after the Closing, or (xiii) any oral or written contract or agreement with any shareholder, director or officer of BMC, any person directly or indirectly (alone or with others) controlled by, controlling or under common control with any of the foregoing persons, or any member of the immediate family of any of the foregoing persons which will bind BMC or any Subsidiary or Option Corporation after Closing. True

and complete copies of all contracts set forth on Schedule 2.1.13, including all amendments thereto, have been delivered to FOSS. To Sellers' best knowledge, each contract of BMC and the Subsidiaries and Option Corporation constitutes the valid and binding obligation of the respective parties thereto and is enforceable in accordance with its terms, except as performance may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditor's rights generally or by the principles governing the availability of equitable remedies. Neither BMC nor any Subsidiary or Option Corporation has received a notice of default or termination from any other party to any such contract. No event which, with or without the passage of time or the giving of notice or both, constitutes a default by BMC or any Subsidiary or Option Corporation which is a party to any such contract has occurred, and Sellers and BMC have no knowledge of any such event on the part of any other party to any such contract.

2.1.14 Certain Lists. Sellers have delivered to FOSS accurate lists and summary descriptions, and true and complete copies of the relevant documents, of the following:

(a) All policies of insurance in force with respect to BMC and each Subsidiary and Option Corporation including, without limitation, those covering or related to employees, liability, properties, vessels, machinery, equipment, furniture, fixtures, products and operations. Such policies, or policies providing substantially the same coverage (which covers such losses and risks and is in such amounts as customary for companies engaged in similar businesses) will be outstanding and fully in force at the Closing. No notice has been received from any insurance company claiming any defects or deficiency. Anticipated future call premiums, if any, have been fully reserved in the Financials.

(b) The names and current annual salary rates of all present directors and officers of each of BMC, the Subsidiaries and Option Corporation and of all employees of each, together with a copy of the salary plan and a summary of the bonuses, incentive compensation and other like benefits, if any, paid to such persons for the fiscal year ended December 31, 1992, and payable to such persons for the fiscal year ending December 31, 1993, and any subsequent period.

(c) The names of all the non-union pensioned employees, if any, of each of BMC and the Subsidiaries and Option Corporation whose pensions are unfunded and their age and current annual unfunded pension rates.

(d) The name of each bank in which BMC or any Subsidiary or Option Corporation has an account or safe deposit box, if any, and the names of all persons authorized to draw thereon or have access thereto.

(e) [Intentionally omitted]

(f) All life insurance policies of BMC or any Subsidiary or Option Corporation is the owner or beneficiary. Except for policy loans to BMC previously

disclosed to Foss in writing, such policies are free of all encumbrances and, except by reason of the death of the person insured, such policies shall be in force at the Closing.

(g) A list of all licenses, permits and other authorizations required by applicable law or governmental authorities in connection with the conduct of the Business.

(h) A list of all real property in which BMC or any Subsidiary has an interest whether as owner or lessee.

(i) A list of (i) the ten (10) largest suppliers to BMC, Option Corporation and the Subsidiaries in terms of purchases during the fiscal year ended December 31, 1992; (ii) the ten largest suppliers to BMC in terms of purchases during the five-month period ended May 31, 1993; and (iii) a statement showing the approximate total purchases from each supplier listed pursuant to the foregoing during the relevant periods.

(j) A list of: (i) the ten (10) largest customers of BMC, Option Corporation and the Subsidiaries in terms of sales during the fiscal year ended December 31, 1992; the ten (10) largest customers in terms of sales during the five-month period ended May 31, 1993; and (iii) a statement showing the approximate total sales to each customer listed pursuant to the foregoing during the relevant periods.

(k) Vessel maintenance print out.

(l) Such other documents and information as FOSS shall have reasonably requested up to two (2) business days before Closing.

2.1.15 Compliance with Laws Relating to Employment. Except as set forth in Schedule 2.1.15(a), BMC and each Subsidiary and Option Corporation have paid or made provision for the payment of all salaries and wages accrued through the date hereof and have complied in all material respects with all federal, state and foreign laws, regulations and orders applicable to it with respect to employment, employment benefits, terms and conditions of employment, and wages and hours. To Sellers' best knowledge, neither BMC nor any Subsidiary has in the past five years engaged in any unfair labor practices as defined in the National Labor Relations Act. There are no unfair labor practices or similar complaints relating to BMC or any Subsidiary pending before the National Labor Relations Board or any other authority. There are no material controversies pending or, to the knowledge of Sellers or BMC, threatened between BMC or any Subsidiary and any of its employees, or any labor union or other collective bargaining unit representing any of its employees. No union or other collective bargaining unit which is not a party to a collective bargaining agreement with BMC or a Subsidiary disclosed pursuant to Section 2.1.13(iii) has been certified or recognized by BMC or any Subsidiary as representing any of its employees. To the best of Sellers' knowledge, except as set forth in Section 2.1.15(b), BMC and each Subsidiary's relations with their respective employees are good.

2.1.16 Employee Benefit Plans.

(a) Except as set forth in Schedule 2.1.16 hereto, neither BMC nor any of the Subsidiaries or, to the Sellers' best knowledge, any Joint Venture currently sponsors, maintains or participates in or is required to contribute to any Employee Pension Benefit Plan (hereinafter referred to as a "Pension Plan"), any Employee Welfare Benefit Plan (hereinafter referred to as a "Welfare Plan"), or any Multiemployer Plan (hereinafter referred to as a "Union Plan") as those terms are defined in the Employee Retirement Income Security Act of 1974 ("ERISA"). The Pension Plans, Welfare Plans and Union Plans set forth in Schedule 2.1.16 will sometimes be collectively referred to hereinafter as "Benefit Plans." All material reports and disclosures relating to the Pension Plans required to be filed with or furnished to any governmental body, agency or court, Pension Plan participants or beneficiaries prior to the date hereof have been timely filed or furnished in accordance with applicable law. There are no actions, suits or claims pending (other than routine claims for benefits) or, to the best knowledge of Sellers and BMC, threatened against any of the Pension Plans. With respect to each Benefit Plan, FOSS has been furnished true and complete copies of (i) the Benefit Plan and all amendments thereto, (ii) all related trust agreements and funding instruments, and all amendments thereto, (iii) if such Benefit Plan is a Pension Plan intended to qualify under Section 401(a) of the Internal Revenue Code (hereinafter referred to as the "Code"), the most recent determination letter issued by the Internal Revenue Service, and (iv) all tax returns and annual reports filed with any governmental agency for the three most recent plan years for which such reports have been filed. There was no liability on the part of BMC or any Subsidiary or, to the Sellers' best knowledge, any Joint Venture for contributions due and unpaid under any such Pension Plan for its most recently completed plan year. All of the representations made in this subparagraph (a) with respect to Pension Plans shall be equally applicable to any Welfare Plans, except that each such representation is expressly limited to Sellers' best knowledge. Schedule 2.1.16 sets forth the contribution percentages under Pension Plans as of the date hereof and all increases in the rate of benefit accrual under such Pension Plans and Union Plans that will be required by any collective bargaining agreement as now in effect. The Pension Plans and related trust agreements, if any, and to the Seller's best knowledge, the Union Plans and related trust agreements, if any, are valid and in full force and effect.

(b) Neither the Sellers, BMC nor any Subsidiary, nor any Pension Plan or trust created thereunder, nor to the Sellers' best knowledge, any Joint Venture, Union Plan or other "party-in-interest" (as defined in ERISA) or "disqualified person" (as defined in Code Section 4975) with respect thereto, has engaged in any "prohibited transaction" (as defined in Code Section 4975) or in any transaction in violation of Section 406 of ERISA.

(c) To the Sellers' best knowledge, each Benefit Plan to which BMC, any Subsidiary, or any Joint Venture is required to make contributions, and all related trust agreements and funding instruments, comply currently, and have complied in the past, both in form and in operation, to the extent applicable, with the provisions of ERISA, the Code, and all other applicable laws, rules and regulations, and each such Benefit Plan, and all related trust agreements and funding instruments, are and have been administered in

accordance with their terms and all of such laws, rules and regulations. All necessary governmental approvals have been obtained for each Benefit Plan, and a favorable determination was made by the Internal Revenue Service as to the qualification under the Code of each Pension Plan; provided, however, that applications have not been made for determination letters with respect to any amendments to any Pension Plan that may be necessary in order to bring such Pension Plan into compliance with the requirements of the Tax Reform Act of 1986.

(d) To the Sellers' best knowledge no Union Plan to which BMC or any Subsidiary or Joint Venture is required to make contributions, nor any related trust thereunder, has incurred any "accumulated funding deficiency" for which an excise tax was, is or will be due under Section 4971 of the Code, and no waiver of any accumulated funding deficiency under Section 412 of the Code has been received by BMC or any Subsidiary or Joint Venture with respect to any such Union Plan.

(e) With respect to any Union Plans listed on Schedule 2.1.16, all contributions required to be made by BMC or any Subsidiary or, to the Sellers' best knowledge, any Joint Venture, have been timely made in accordance with the terms of the applicable collective bargaining contract and the Union Plans related thereto, and neither BMC nor any of the Subsidiaries or Joint Ventures has withdrawn from any such plan through the date hereof. All premiums (including interest and penalties, if any) due the Pension Benefit Guaranty Corporation ("PBGC") with respect to any Union Plan to which BMC or any Subsidiary are required to contribute or, to the Sellers' best knowledge, to which any Joint Venture is required to contribute, have been paid for each plan year for which such premiums were required. To the Sellers' best knowledge, since September 2, 1974, there has been no "reportable event," as defined in Section 4043(b) of ERISA, with respect to any such Union Plan which is or was required to be reported to the PBGC. Except as set forth in Schedule 2.1.16, no filing with the PBGC has been made by BMC, any Subsidiary, or, to the Sellers' best knowledge, any Joint Venture, and, to the Sellers' best knowledge, no proceeding has been commenced by the PBGC, to terminate any Union Plan funded in whole or in part, by BMC or any Subsidiary or Joint Venture. Neither BMC nor any Subsidiary, nor to the Sellers' best knowledge, any Joint Venture has (i) ceased operations at any facility so as to become subject to the provisions of Section 4062(e) of ERISA, (ii) withdrawn as a substantial employer so as to become subject to the provisions of Section 4063 of ERISA, (iii) ceased making contributions, within five (5) years prior to the date hereof, to any Union Plan to which BMC, any Subsidiary, or any Joint Venture had been making contributions, or (iv) made a complete or partial withdrawal from a Union Plan so as to incur "withdrawal liability," as defined in Section 4201 of ERISA (without regard to any waiver or reduction thereof under Section 4207 or 4208 of ERISA).

2.1.17 No Violation, Consents. Except as set forth in Schedule 2.1.17, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby with or without the lapse of time or the giving of notice or both, will (i) violate any provision of the Certificate of Incorporation or bylaws of BMC or any of the Subsidiaries, Option Corporation or corporate Joint Ventures, or Partnership Agreements of the partnership Joint Ventures, or (ii) violate, conflict with, result in the

breach or termination of, constitute a default under, accelerate or otherwise adversely affect the performance or obligations of any party required by, or result in the creation of any lien, charge or encumbrance upon the Acquired Assets, any of the properties or assets of BMC or any of the Subsidiaries or Option Corporation or, to Sellers' best knowledge, the Joint Ventures pursuant to, any indenture, mortgage, deed of trust, contract, lease, agreement or other instrument to which BMC or any of the Subsidiaries, Option Corporation, or owners of the Acquired Assets or Joint Ventures is a party or by which it or any of them or any of their properties or assets may be bound, or violate any judgment, decree or order of any federal, state, local or foreign court, regulatory authority or other governmental body, or any statute, rule or regulation, applicable to BMC or any of the Subsidiaries, Option Corporation or Joint Ventures. Except as set forth in Schedule 2.1.17, no consent, approval, authorization, order, declaration, filing, registration or qualification of or with any court, regulatory authority or other governmental body or other person is required to be made or obtained by any party for the consummation of the transactions contemplated by this Agreement (including the Exhibits hereto).

2.1.18 Litigation. Except as set forth in Schedule 2.1.18 hereto, there are no actions, suits, proceedings, or investigations of any nature pending or, to the knowledge of Sellers, threatened, relating to BMC, any Subsidiary or Option Corporation or, to the Sellers' best knowledge, any Joint Venture, or any of their respective properties or assets of any kind, or the Acquired Assets. Except as set forth in Schedule 2.1.18, neither BMC nor any Subsidiary or Option Corporation or, to Sellers' best knowledge, any Joint Venture is subject to or in default under any outstanding judgment, order, writ, injunction or decree of any court or of any governmental agency or instrumentality, and there is no such judgment, order, writ, injunction, or decree of any kind in effect enjoining or restraining Sellers (in relation to BMC or any Subsidiary, Option Corporation or Joint Venture), BMC, Option Corporation, any Subsidiary, to Sellers' best knowledge any Joint Venture, or any officer or director of BMC (in relation to BMC or any Subsidiary or Joint Venture), from taking any action of any kind. Except as specifically disclosed on Schedule 2.1.18, the matters listed on Schedule 2.1.18 are fully insured or are the contractual liability of third parties and neither the defense thereof nor an adverse judgment therein will adversely affect BMC, Option Corporation or the Subsidiaries.

2.1.19 Certain Events. Except as set forth in Schedule 2.1.19 hereto, neither BMC, Option Corporation nor any Subsidiary has, since December 31, 1992:

(a) paid or declared any cash dividend or other dividend or distribution with respect to its capital stock;

(b) purchased, sold or otherwise disposed of, any material assets, or assumed or contracted to assume any material obligations, or waived any substantial right, other than in the ordinary course of business;

(c) incurred any obligation or liability, whether absolute, contingent or otherwise, other than in the ordinary course of business;

(d) granted any increase in the compensation payable to any officer or employee of BMC or the Subsidiaries or advanced credit to any officer, employee or shareholder of BMC or the Subsidiary;

(e) entered into or amended any bonus, incentive compensation, deferred compensation, profit sharing, retirement, pension, group insurance or other Benefit Plan or Multiemployer Plan or any union, employment or consulting agreement or arrangement or prepaid any amounts due under any consulting agreement or arrangement;

(f) paid any claim or discharged or satisfied any lien or encumbrance or paid any obligation or liability other than (A) as and to the extent reflected in the December 31, 1992 balance sheet, or (B) liabilities incurred after December 31, 1992, in the ordinary course of business;

(g) permitted any policies of insurance covering any property which is material to the Business to lapse or expire without renewal or replacement on substantially the same terms;

(h) taken any other action not in the ordinary course of business, including, without limitation, the entering into of any agreement involving payments by or on behalf of BMC or any Subsidiary of amounts in excess of $10,000;

(i) prepaid any portion of its long-term debt or paid any portion of its long term debt other than in the ordinary course of business;

(j) entered into any oral or written contract or agreement or any transaction with any shareholder, director or officer of BMC, Option Corporation or any Subsidiary, any person controlling, controlled by or under common control with any of the foregoing persons or any member of the immediate family of any of the foregoing persons except as disclosed on Schedule 2.1.19; or

(k) entered into any agreements with respect to any of the foregoing.

2.1.20 Corporate Records. At Closing, the stock records of BMC, Option Corporation and the Subsidiaries will be current and correct and the minute books will be current, correct and complete for all periods after December 31, 1991.

2.1.21 Foreign Corrupt Practices Act. Neither BMC nor any of its Subsidiaries or the Option Corporation has made, offered or agreed to offer anything of value to any foreign government official, political party or candidate for government office nor has it otherwise taken any action which would cause BMC or the Subsidiaries or Option Corporation to be in violation of Sections 103b or 104 of the Foreign Corrupt Practices of 1977, as amended.

2.1.22 Environmental. Except as set forth in Schedule 2.1.22:

(i) There has been no discharge, disposal, deposit, release, leak, or placement, directly or indirectly, of any hazardous materials or petroleum products in, on or under the Acquired Assets or the properties operated, used, owned or leased by BMC, the Subsidiaries, Option Corporation, or, to Sellers' best knowledge, the Joint Ventures, and no contamination or pollution of surface or ground waters or soil has occurred on or from said properties or in relation to the Business which will result in any liability to BMC, the Subsidiaries, Option Corporation or FOSS.

(ii) Sellers and BMC have no knowledge of any tank, storage vessel, drum or container of any kind that was or presently is located underground on properties operated, used, owned or leased by BMC, Option Corporation or the Subsidiaries and any above-ground tanks are listed on Schedule 2.1.22, are in good condition, have all applicable permits and are adequate for present use;

(iii) BMC, Option Corporation and the Subsidiaries have all necessary permits, licenses, and other authorizations under Environmental Laws (as defined below) for the operation of the Business and the Acquired Assets, and such authorizations are currently valid and neither Sellers, BMC, Option Corporation nor the Subsidiaries has received any notice, complaint, order or inquiry from any person alleging noncompliance with Environmental Laws (as defined below) or calling attention to the need for any remedial or corrective action related thereto;

(iv) None of the Acquired Assets or properties which are or have been owned, used, leased or operated by BMC, the Subsidiaries, Option Corporation or the Joint Ventures are known to Sellers, BMC or the Subsidiaries to be the subject of any investigation by a governmental authority evaluating whether any remedial or corrective action is necessary to respond to a release or threatened release of any hazardous material or petroleum products;

(v) Neither the Acquired Assets, BMC, Option Corporation, the Subsidiaries, or, to the Sellers' best knowledge, the Joint Ventures or any properties which are or have been used, leased or operated by them are in violation of, or to the best knowledge of Sellers, potentially subject to, any corrective or remedial action under any Environmental Laws.

(vi) To Sellers' best knowledge, there is no asbestos, asbestos-containing material, or PCBs at, on, or in the properties which are used, leased or operated by BMC, the Subsidiaries or the Joint Ventures or the Acquired Assets;

(vii) Sellers, BMC, the Acquired Assets, the Option Corporation, the Subsidiaries and, to Sellers' best knowledge, the Joint Ventures, are in compliance with all Environmental Laws related to the Business.

(viii) "Environmental Laws" shall mean any state, federal or local laws and regulations governing environmental protection or remediation or any pollution, discharge or disposal standards, including without limitation, the Oil Pollution Act of 1990, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Resource Conservation and Recovery Act, all as amended.

2.1.23 Real Property Leases. BMC (or the Subsidiary or Option Corporation) enjoys exclusive, peaceful, and undisturbed possession under all leases to which it is a party. No lease or other obligation of BMC (or the Subsidiaries or Option Corporation) as a lessee contains any obligation to purchase real property and no third party has an option to purchase real property as to which BMC, Subsidiaries or Option Corporation is a lessor. Copies of all leases have been previously delivered to FOSS. All leases are valid, subsisting, and enforceable in accordance with their terms, and neither the Sellers nor BMC nor Subsidiary or Option Corporation has received or given any notice of default thereunder nor, to the best knowledge of the Sellers and BMC, is there any basis for such claim.

2.1.24 Public Utility. Except as set forth in Schedule 2.1.24, neither BMC, any Subsidiary, Option Corporation or the Business is subject to regulation under the Public Utilities Holding Company Act, the Interstate Commerce Act or the Investment Company Act of 1940, nor are they subject to regulation pursuant to rules or regulations thereunder. BMC and the Subsidiaries are not a "holding company," or a "subsidiary company" of a "holding company" or an "affiliate" of a "holding company" or of a "subsidiary company" of a holding company, or a "public utility" within the meaning of the PUHCA and the rules and regulations thereunder.

2.1.25 Suppliers. BMC is satisfied with its relationships with all of its suppliers and Sellers have no reason to believe that its supply of any item, services or raw material will be interrupted or terminated in the foreseeable future or, if terminated, that such supply cannot be replaced at reasonable cost within a reasonable period of time. To the Sellers' best knowledge, the acquisition of the Business by FOSS hereunder will not adversely affect BMC's current business relationship with any of its suppliers.

2.1.26 Customers. To Sellers' best knowledge, the acquisition of the Business by FOSS hereunder will not in and of itself adversely affect BMC's business relationship with any of its customers. Copies of all correspondence or other documents relating to complaints received by BMC and the Subsidiaries since January 1, 1990, from any of its customers, whether or not resolved, and any other pending customer complaints have heretofore been furnished to FOSS by BMC. Neither BMC nor the Subsidiaries has any obligation to accept any returns from or make any allowance to any customers by reason of alleged overshipments, defective services or merchandise.

2.1.27 No Misrepresentations. No representation or warranty by Sellers contained in this Agreement and the Schedules hereto, and no schedule, certificate or other instrument or document furnished or to be furnished by or on behalf of Sellers pursuant to this Agreement, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact required to be stated herein or therein or which is

necessary to make the statements contained herein or therein, in light of the circumstances under which they were made, not misleading.

2.1.28 Best Knowledge. For purposes of those representations in Section 2.1 which relate to the Joint Ventures and which are made to Sellers' best knowledge and in Sections 2.1.22 and 2.1.17 as related to compliance with Environmental Laws by prior owners of the properties of BMC, the Subsidiaries, Option Corporation or Joint Ventures, "best knowledge" shall mean Sellers' best current knowledge.

2.2 Representations and Warranties of FOSS. FOSS represents and warrants to Sellers and agrees as follows:

2.2.1 Organization; Good Standing; Power and Authority; Effective Agreement. FOSS is a corporation duly organized, validly existing and in good standing under the laws of the State of Washington, is a citizen of the United States as defined in Section 2 of the Shipping Act of 1916, as amended, for purposes of operation in the coastwise trade and has the corporate power and authority to carry on its business as it is now conducted, and to own, lease and operate its properties. FOSS has the necessary corporate power and authority to execute and deliver this Agreement and will at Closing have taken all necessary corporate action to consummate the transactions contemplated hereby. The execution and delivery of this Agreement has been duly authorized by the Board of Directors of FOSS. This Agreement is a valid and binding obligation of FOSS, enforceable against it in accordance with its terms, except as performance may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally or by the principles governing the availability of equitable remedies.

2.2.2 No Violation. Except as set forth in Schedule 2.2.2, neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby with or without the lapse of time or giving of notice or both, will (i) violate any provision of the Articles of Incorporation or bylaws of FOSS or (ii) violate, conflict with, result in the breach or termination of, or constitute a default under, accelerate or otherwise adversely affect the performance or obligations of any party required by, or result in the creation of any lien, charge or encumbrance upon any of the properties or assets of FOSS pursuant to, any indenture, mortgage, deed of trust, contract, lease, agreement or other instrument to which FOSS is a party or by which it or any of its properties or assets may be bound, or violate any judgment, decree or order of any federal, state, local or foreign court, regulatory authority or other governmental body, or any statute, rule or regulation, applicable to FOSS.

2.2.3 Consents. Except as set forth in Schedule 2.2.3, no consent, approval, authorization, order, registration or qualification of or with any court, regulatory authority, governmental body or other person is required to be made or obtained by FOSS for the consummation by FOSS of the transactions contemplated by this Agreement.

2.2.4 Litigation. There are no actions, suits, proceedings or investigations of any nature pending or, to the knowledge of FOSS, threatened against FOSS that challenge

the validity or propriety of the transactions contemplated by this Agreement or seek to delay, prohibit or restrict in any manner, any action taken or to be taken by FOSS under this Agreement.

2.2.5 Investment Intent. FOSS is acquiring the Shares for its own account for investment only and not with a view to, for resale in connection with, or with an intent of participating directly or indirectly in, any distribution of the Shares within the meaning of the Securities Act of 1933, as amended (the "Act"). FOSS understands and agrees that the sale of the Shares to FOSS has not been registered under the Act or any state securities laws, and that the Shares may not be resold without registration under the Act or applicable state securities laws or an exemption therefrom.

2.2.6 No Misrepresentations. No representation or warranty by FOSS contained in this Agreement and the Schedules hereto, and no schedule, certificate or other instrument or document furnished or to be furnished by or on behalf of FOSS pursuant to this Agreement, contains or will contain any untrue statement of a material fact or omits or will omit to state any material fact required to be stated herein or therein or which is necessary to make the statements contained herein or therein, in light of the circumstances in which they were made, not misleading.

ARTICLE III.

COVENANTS

3.1 Covenants of Sellers and BMC.

3.1.1 Operate in Ordinary Course. From and after the execution and delivery of this Agreement and until the Closing, Sellers and BMC agree to conduct the Business and operations of BMC and each of the Subsidiaries in the ordinary course consistent with past practices and use their best efforts to preserve intact the respective businesses, organizations and relationships with employees, agents, and others having business dealings with BMC or the Subsidiaries.

3.1.2 Certain Prohibited Transactions. Prior to the Closing, BMC and each of the Subsidiaries will not, without the prior written consent of FOSS (which consent will not be unreasonably withheld):

(a) amend its Articles of Incorporation, Certificate of Incorporation or bylaws;

(b) pay or declare any cash dividend or other dividend or distribution with respect to its capital stock;

(c) except as set forth on Schedule 3.1.2, issue, transfer, sell or deliver any shares of its capital stock (or securities convertible into or exchangeable, with or without additional consideration, for such capital stock);

(d) except as set forth on Schedule 3.1.2, purchase, or otherwise acquire for any consideration, any outstanding shares of its capital stock (or securities carrying the right to acquire, or convertible into or exchangeable with or without additional consideration for, such capital stock);

(e) grant any option, warrant, right, call or commitment of any character relating to its issued, unissued or treasury shares of capital stock or enter into voting trusts or other agreements or understandings with respect to the voting of its capital stock;

(f) sell or otherwise dispose of, or grant any security interest in or encumbrance on, any of its assets or properties other than in the ordinary course of business;

(g) incur any indebtedness for borrowed money, except for indebtedness incurred in the ordinary course of business the repayment term of which does not exceed one year;

(h) enter into or implement any new bonus, pension, profit-sharing, retirement, stock purchase, deferred compensation, hospitalization, insurance or other plan providing employee benefits, or amend the terms of any such plans which are in existence;

(i) enter into any employment, consulting or similar contract;

(j) increase the compensation, deferred compensation or benefits payable to any employee (except in the ordinary course of business or as required by law) or advance credit to any employee or shareholder;

(k) enter into any oral or written contract or agreement or any transaction with any shareholder, director, or officer of BMC or any Subsidiary, any person controlling, controlled by or under common control with any of the foregoing persons or any member of the immediate family of any of the foregoing person which will bind BMC or any Subsidiary after the Closing;

(l) make any capital expenditure in excess of $10,000 (except for capitalized maintenance expenditures up to $25,000 per item and disclosed improvements to the GLACIER BAY);

(m) prepay any portion of its Debt in excess of normal installment payments when due;

(n) enter into any commitment or transaction (including, without limitation, with respect to the disposition of assets) other than in the ordinary course of business, except as expressly contemplated by this Agreement;

(o) take any action, or by inaction permit any action to be taken or event to occur, which would cause any representation or warranty made in or pursuant to Section 2.1 of this Agreement to be untrue as of the Closing; or

(p) enter into any agreements with respect to any of the foregoing.

3.1.3 Information. From and after the execution and delivery of this Agreement and until the Closing, Sellers and BMC shall provide FOSS with such information and permit the representatives of FOSS such access to the properties and records of BMC, the Option Corporation and the Subsidiaries (including without limitation financial records and personnel files) and related to the Acquired Assets during normal business hours as from time to time may be reasonably requested by FOSS and/or its representatives.

3.1.4 Confidentiality.

(a) All information, whether printed, written, photographic, pictorial or oral, in answer to specific inquiry or voluntarily furnished by FOSS to Sellers or BMC or their respective agents or employees prior to Closing, in connection with this Agreement and the transactions contemplated hereby, shall be held in confidence by such recipients; provided, however, FOSS consents to the prior disclosure by BMC and Sellers to the persons or entities set forth on Schedule 3.1.4 concerning execution of the letter of intent between BMC and FOSS.

(b) Without the prior written consent of FOSS, Sellers, BMC and the Subsidiaries will not use for their own benefit or for the benefit of any other person, corporation or other business entity, or disclose in any manner to any person, corporation or other business entity, any trade secrets, or confidential or proprietary information (including, without limitation, knowledge relating to clients, sales, projects in development, designs, plans or employees) obtained from FOSS prior to Closing in connection with this Agreement. From and after the Closing, Sellers will not use for their own benefit or for the benefit of any other person, corporation or business entity, any trade secrets, or confidential or proprietary information of BMC or the Subsidiaries except for disclosures authorized in writing by BMC or FOSS.

(c) The preceding restrictions on the use and disclosure of information shall not apply if that information is available to the general public on a nonconfidential basis through no fault of Sellers, BMC or the Subsidiaries, or if that information was obtained from a third party who Sellers reasonably believe not to be in breach of any duty or obligation to FOSS as a result of providing such information.

(d) Upon the termination of this Agreement and the abandonment of the stock purchase contemplated hereby, all documents and written, photographic and

pictorial information, and all copies thereof, provided by FOSS to the Sellers, BMC or the Subsidiaries shall be returned to it.

(e) Sellers acknowledge and agree that the remedy at law for breach of any of the preceding covenants may be inadequate and agree and consent that temporary or permanent injunctive relief may be granted in lieu of, or in addition to, money damages in any proceeding which may be brought to enforce the covenants in this subparagraph 3.1.4, without the necessity of proof of actual damages.

(f) If the scope of these restrictions is too broad to permit enforcement of any restriction to its fullest extent, such restriction shall be enforced to the maximum extent permitted by law or may be judicially modified accordingly in any proceeding brought to enforce such restriction.

3.1.5 Shares. Except as set forth in Schedule 3.1.5, until the Closing no Seller shall (i) sell, transfer, assign or convey title to any of the number of Shares set forth under Column A opposite such Sellers name on Exhibit A hereto, (ii) create or permit any other person to create any lien, claim, pledge, equity or encumbrance against such Shareholder's good and valid title to any of such Shares, (iii) take any action, or by inaction permit any action to be taken or any event to occur, which would cause any representation made in or pursuant to this Agreement to be untrue as of the Closing, or (iv) enter into any agreement or understanding to take any action prohibited by (i), (ii) or (iii) above.

3.1.6 Satisfaction of Conditions. Sellers and BMC shall use their best efforts, and take all such actions as may be reasonably necessary or appropriate, to cause (i) the satisfaction of the conditions referred to in Section 4.2 of this Agreement, and (ii) the consummation of the transactions contemplated by this Agreement.

3.1.7 Notices. Sellers shall give prompt notice to FOSS of the occurrence or failure to occur of any event which would be likely to cause any representation or warranty herein to be inaccurate or untrue in any material respect from the date hereof to Closing and any material failure to comply with or satisfy any covenant, condition or agreement to be satisfied or complied with by then hereunder.

3.1.8 Agreements. Sellers shall deliver at Closing an Employment Agreement in the form attached as Exhibit B, duly executed by Peter J. Brix; Noncompetition and Consulting Agreements in the form[s] attached as Exhibits C, duly executed by Peter J. Brix, Ellison Morgan and Robert DeArmond and a Consulting Agreement duly executed by Joseph Tennant; Real Estate Acquisition Agreement substantially in the form attached hereto as Exhibit D, duly executed by Peter J. Brix; four separate Vessel and Equipment Acquisition Agreements substantially in the form attached hereto as Exhibit E, duly executed by Knappton Leasing, Enterprise Partners, Hayden Investors and Tri Ocean Charters, Inc.; Purchase Option and Right of First Refusal in Longview Booming Company, Inc., substantially in the form attached hereto as Exhibit F, duly executed by all of the parties thereto; Right of First Refusal and Charter and Vessel Acquisition Agreement substantially in the form attached as Exhibit G, duly executed by

Peter J. Brix; and Right of First Refusal for Hayden Investment Corporation substantially in the form attached as Exhibit H, duly executed by all of the parties thereto; John Altstadt's consent to the assignment of the option regarding the Option Corporation to FOSS or its designee and warranties and covenants regarding operations of the Option Corporation in the ordinary course of business during the period between execution and Closing, shall be obtained on terms satisfactory to FOSS.

3.1.9 Disclosure. Subject to the requirements of applicable laws and regulations, from the date hereof, BMC shall not, prior to Closing, make any public announcement or disclosure with respect to the transactions contemplated herein without the consent of FOSS with respect thereto.

3.1.10 Hart-Scott. BMC shall file within two (2) days of the date hereof a Notification and Report Form under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended ("HSR"), and shall promptly make all further filings and take all further actions as may be necessary under HSR relating to the transactions contemplated by this agreement, as soon as practicable.

3.1.11 Employees. At Closing, $ of the purchase price for the Shares shall be deposited into an interest-bearing escrow account for BMC, the Subsidiaries, and Option Corporation to use for payment of severance pay to salaried employees who are terminated within 18 months after the Closing Date. Payments shall be calculated by two weeks' pay for every full year of service as an employee accrued to the date of termination except for terminations due to conduct involving moral turpitude. The determination of payments and withdrawals from the account shall be made solely by BMC or FOSS. Any amounts remaining in said account as to which no claims have been made by FOSS or BMC or the Subsidiaries within 19 months of the Closing Date, shall be distributed to Sellers or their designee. FOSS or BMC shall not terminate participants in the BMC Stock Appreciation Rights Plan dated October 1988 before October 1993 except as provided therein. Nothing in this Section 3.1.11 is intended to confer upon any person, other than Sellers, FOSS, BMC and its Subsidiaries, any rights or remedies of any nature whatsoever.

3.1.12 Excise Taxes. Within the periods required by law, Sellers and FOSS shall prepare and file all Washington State real estate excise tax returns required to be filed as a result of the transactions contemplated by this Agreement and simultaneously therewith, or earlier if required by law, FOSS or BMC shall pay all Washington State real estate excise taxes due.

3.2 Covenants of FOSS.

3.2.1 Confidentiality.

(a) All information, whether printed, written, photographic, pictorial or oral, in answer to specific inquiry or voluntarily furnished by BMC, any Subsidiary or any of the Sellers to FOSS, its agents or employees, in connection with this Agreement and the transactions contemplated hereby, shall be held in confidence by FOSS; provided, that after the Closing this covenant shall terminate except with respect to (i) information obtained by FOSS from Sellers about their personal affairs, and (ii) information obtained by FOSS from Sellers related to Brusco Tug & Barge, Inc., or Sellers' affiliates, Hayden Investment Corporation and its subsidiaries, Longview Booming Co., Inc., and St. John's Group, Inc. which information received in written form shall be returned to Sellers on or before Closing.

(b) Without prior written consent of BMC (or, with respect to such types of information related to the affairs of any of the Sellers, without the prior written consent of the Seller to whom or to which such information relates) FOSS will not use for its own benefit or for the benefit of any other person, corporation or other business entity, or disclose in any manner to any person, corporation or other business entity, any trade secrets, or confidential or proprietary information (including, without limitation, knowledge relating to clients, sales, projects in development, designs, plans or employees) belonging to or relating to the affairs of BMC, any Subsidiary or any of the Sellers and obtained in connection with this Agreement; provided that after the Closing this covenant shall terminate except with respect to (i) information obtained by FOSS from Sellers about their personal affairs, and (ii) information obtained by FOSS from Sellers related to Brusco Tug & Barge, Inc., or its affiliates, Hayden Investment Corporation and its subsidiaries, Longview Booming Co., Inc., and St. John's Group, Inc. (subject to the terms of Exhibits F and H).

(c) The preceding restrictions on the use and disclosure of information shall not apply if that information is available to the general public on a nonconfidential basis through no fault of FOSS, or if that information was obtained from a third party who FOSS reasonably believes not to be in breach of any duty or obligation to BMC, any Subsidiary or any of the Sellers as a result of providing such information.

(d) Upon the termination of this Agreement and the abandonment of the stock purchase contemplated hereby, all documents and written, photographic and pictorial information, and all copies thereof, provided by BMC, any Subsidiary or any of the Sellers to FOSS shall be returned to the party which has provided such documents and information.

(e) FOSS acknowledges and agrees that the remedy at law for breach of any of the preceding covenants may be inadequate and agrees and consents that temporary or permanent injunctive relief may be granted in lieu of, or in addition to, money damages in any proceeding which may be brought to enforce the covenants in this subparagraph 3.2.1, without the necessity of proof of actual damages.

(f) If the scope of these restrictions is too broad to permit enforcement of any restriction to its fullest extent, such restriction shall be enforced to the maximum extent permitted by law or may be judicially modified accordingly in any proceeding brought to enforce such restriction.

3.2.2 Satisfaction of Conditions. FOSS shall use its best efforts, and take all such actions as may be reasonably necessary or appropriate, to cause (i) the satisfaction of the conditions referred to in Section 4.1 of this Agreement, and (ii) the consummation of the transactions contemplated by this Agreement.

3.2.3 Disclosure. Subject to the requirements of applicable laws and regulations, FOSS shall not, prior to Closing, make any public announcement or disclosure with respect to the transactions contemplated hereon without the consent of Sellers with respect thereto.

3.2.4 Hart-Scott. FOSS shall file within two (2) days of the date hereof a Notification and Report Form under HSR and shall promptly make all further filings and take all further actions as may be necessary under HSR relating to the transactions contemplated by this Agreement, as soon as practicable.

3.2.5 Pre-Closing Environmental Audit. Prior to Closing, FOSS at its sole cost and expense shall have the right to perform an environmental inspection and audit of BMC, the Option Corporation and the Subsidiaries and the Acquired Assets. In the event that it reveals any environmental condition which FOSS is unwilling at its cost and expense to remedy (including without limitation, items set forth on the Schedules hereto), or which FOSS believes cannot be effectively and practically remediated, FOSS may terminate this Agreement at any time prior to Closing by giving Sellers written notice of such termination. If Sellers tender to FOSS reasonable assurances that Sellers can and shall at their sole cost and expense, remedy, to FOSS's satisfaction, the items specified in the notice of termination with all reasonable diligence but in no event later than six months after the Closing Date and without material disruption of FOSS's operation of the Business, then the notice of termination shall be voided. Conditions which are revealed in the inspection and audit conducted by FOSS under this Section which do not result in termination shall not give rise to liability by Sellers for breach of Section 2.1.22 or indemnity under Section 5.2. To the extent Sellers must perform any remedial work under this section after the Closing Date, FOSS shall grant Sellers and their contractors reasonable access to the properties to perform such work.

3.2.6 Payment of Purchase Price. Subject to all terms and conditions of this Agreement, FOSS covenants to pay the Purchase Price under Section 1.3 upon Closing.

3.2.7 Due Diligence. Prior to Closing, FOSS will be investigating the records and properties of BMC. FOSS agrees to advise Sellers prior to Closing of any state of facts discovered by the individuals identified in Schedule 3.2.7(a) prior to Closing which would render Sellers' representations and warranties contained herein untrue or misleading in a material respect. To the extent Sellers or those BMC individuals identified in Schedule

3.2.7(b), or any of them, do not have actual knowledge of any such state of facts and the individuals listed on Schedule 3.2.7(a) have actual knowledge thereof and fail to notify Sellers as required above, the applicable representation and warranty known to be untrue or misleading shall be unenforceable solely with regard in such state of facts. In all other respects, the representations and warranties of Sellers remain unaffected.

3.2.8 Vessel Inspection. Prior to Closing, FOSS at its sole cost and expense shall have the right to inspect the vessels of BMC, Subsidiaries and Option Corporation and comprising the Acquired Assets. In the event it reveals conditions which are in breach of the warranty in Section 2.1.9, FOSS may terminate this Agreement by giving Sellers written notice of such.

ARTICLE IV.

CONDITIONS

4.1 Conditions to the Obligations of Sellers. The obligations of Sellers to consummate the transactions contemplated by this Agreement are subject, at Sellers' option, to the satisfaction of the following conditions at or prior to Closing:

4.1.1 Compliance by FOSS. All the terms, covenants and conditions of this Agreement required to be complied with and satisfied by FOSS at or prior to the Closing Date shall have been duly complied with and satisfied in all respects, and the representations and warranties made by FOSS shall be true and correct in all respects at and as of the Closing Date, except for those specifically relating to a time or times other than the Closing Date (which shall be true and correct in all respects at such time or times) and except for changes permitted by this Agreement, with the same force and effect as if made at and as of the Closing Date.

4.1.2 Opinion of Counsel. There shall have been delivered to Sellers an opinion of Garvey, Schubert & Barer in form and substance satisfactory to Seller's counsel to be attached as Exhibit I.

4.1.3 Officer's Certificate. FOSS shall have delivered to Sellers a certificate signed by its President and Secretary dated the Closing Date, certifying to the fulfillment of the conditions specified in Section 4.1.1 hereof.

4.1.4 Litigation. There shall be no order, decree or judgment of any court, regulatory authority or other governmental body having competent jurisdiction enjoining or otherwise affecting the consummation of the transactions contemplated by this Agreement.

4.1.5 Corporate Documents. Sellers shall have received from FOSS resolutions adopted by the Board of Directors of FOSS approving this Agreement and the transactions contemplated hereunder, certified by the Secretary.

4.1.6 Consents. FOSS shall have obtained the consents and approvals as set forth in Schedule 2.2.3.

4.1.7 Hart-Scott. At or prior to the Closing, the filing and waiting period requirements, including extensions thereto, under HSR relating to the transactions contemplated by this Agreement shall have been complied with.

4.2 Conditions to the Obligations of FOSS. The obligations of FOSS to consummate the transactions contemplated by this Agreement are subject, at FOSS's option, to the satisfaction of the following conditions at or prior to Closing:

4.2.1 Tender of Certificates. Each Seller shall have tendered stock certificates representing all of the number of the Shares set forth under Column A opposite such Seller's name on Exhibit A hereto, duly endorsed for transfer or accompanied by properly executed stock powers, with all requisite stock transfer stamps affixed thereto at no cost to FOSS. Sellers shall have done, executed, acknowledged, and delivered to FOSS and/or caused to have been done, executed, acknowledged and delivered to FOSS all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and instruments, whether by or from Sellers or third parties, as FOSS in its sole discretion, may have deemed to be required to convey and transfer to and vest in FOSS, and protect its right, title and interest in and enjoyment of, the Shares and the Acquired Assets.

4.2.2 Compliance by Sellers and BMC. All the terms, covenants and conditions of this Agreement required to be complied with and satisfied by Sellers or BMC at or prior to the Closing Date shall have been duly complied with and satisfied in all respects, and the representations and warranties made by Sellers shall be true and correct in all respects at and as of the Closing Date, except for those specifically relating to a time or times other than the Closing Date (which shall be true and correct in all respects at such time or times) and except for changes permitted by this Agreement, with the same force and effect as if made at and as of the Closing Date.

4.2.3 Opinion of Counsel. There shall have been delivered to FOSS an opinion of Schwabe, Williamson and Wyatt, dated the Closing Date in form and substance satisfactory to FOSS's counsel to be attached as Exhibit J.

4.2.4 Sellers' Certificates. Sellers shall have delivered to FOSS certificates signed by each Seller dated the Closing Date, certifying to the fulfillment of the conditions specified in Section 4.2.2 and 4.2.5. Sellers shall have delivered all such other certificates and documents with respect to Sellers, BMC and the Subsidiaries as may reasonably have been requested by FOSS.

4.2.5 No Material Adverse Change. During the period from December 31, 1992, to the Closing, there shall not have been any material adverse change in the financial condition or results of operations of BMC or the Subsidiaries and neither BMC nor any Subsidiary shall have sustained any material loss, or damage to its assets, whether or not insured, that materially affects the Business as it presently operates or the Acquired Assets.

4.2.6 Resignations/Change of Bank Accounts. Sellers shall have delivered to FOSS written resignations of all officers and directors of BMC and the Subsidiaries effective as of the Closing. Except as mutually agreed by the parties, no member of the management of BMC shall have resigned (or given notice of resignation), had his employment terminated, or become disabled from performing his duties. Sellers shall have delivered to FOSS evidence of changing the authorized signatories on all bank accounts of BMC and the Subsidiaries to individuals to be designated by FOSS.

4.2.7 Consents. Sellers and BMC shall have obtained and delivered all consents, approvals and waivers from governmental authorities and other persons necessary to permit Sellers, BMC and the Subsidiaries to consummate the transactions hereunder.

4.2.8 Agreements. Sellers shall have delivered to FOSS executed agreements pursuant to Section 3.1.8, in the form attached as Exhibits B through H hereto.

4.2.9 Litigation. No suit, action, investigation, inquiry or proceeding by any governmental body or other person shall have been instituted or threatened against Sellers, FOSS, BMC or the Subsidiaries which could affect the validity or legality of the transactions contemplated hereunder or which could prevent FOSS from continuing to operate the Business in all respects as on the date hereof.

4.2.10 Corporate Documents. FOSS shall have received from BMC resolutions of the Board of Directors approving this Agreement and the transactions contemplated hereby, certified by the corporate secretary. Sellers shall have delivered to FOSS (i) certificates of good standing for BMC and each of the Subsidiaries from the respective jurisdictions of incorporation dated within 5 business days of the Closing Date and (ii) complete and correct copies of the Articles of Incorporation (certified by the Secretary of State within 5 business days of Closing) and By-laws for BMC and the Subsidiaries, as amended and in effect on the date of Closing, as certified by the corporate secretary.

4.2.11 Hart-Scott. At or prior to the Closing, the filing and waiting period requirements, including extensions thereto, under HSR relating to the transactions contemplated by this Agreement shall have been complied with.

4.2.12 Audits. No notice of termination by Foss shall be outstanding under Sections 3.2.5 or 3.2.8.

4.2.13 Payments to and from Affiliates. At Closing, all amounts due from Hayden Investment Corporation and its Subsidiaries to BMC and its Subsidiaries shall be paid in full.

ARTICLE V.

SURVIVAL OF REPRESENTATIONS; INDEMNIFICATION

5.1 Survival. Except as expressly provided in Section 2.1.9, all representations, warranties, covenants, indemnities and agreements contained in or made pursuant to this Agreement (including Schedules hereto) by Sellers or FOSS (but not BMC) shall survive the Closing and any investigation conducted prior thereto by any party for a period of eighteen (18) months (unless a claim for indemnity has been timely made within such period as set forth below); provided, however, that with respect to the representations and warranties contained in or made pursuant to Sections 2.1.6 and 2.1.22, and the indemnity of FOSS under Section 5.2.1(iii) such representations and warranties shall survive until termination of the applicable statutory or assessment period. Any claim for indemnification made following such periods of survival shall be untimely and unenforceable.

5.2 Indemnification.

5.2.1 By FOSS. After the Closing and subject to Section 5.2.3, FOSS shall indemnify, defend and hold Sellers, their successors, heirs and assigns harmless from and against (i) any claims, damages, losses, fees, liabilities, costs or expenses (including, without limitation, reasonable attorneys' fees) (collectively "Loss") after the Closing related to Debt which FOSS, in its sole discretion, expressly agrees in writing referencing this paragraph to have BMC assume at Closing, (ii) Losses in excess of $250,000 in the aggregate resulting from any misrepresentation, breach of warranty or covenant or non-fulfillment of any agreement on the part of FOSS hereunder which is not waived in writing expressly referencing this paragraph by Sellers at Closing; and (iii) Losses relating to the Environmental Laws (as defined in § 2.1.22) which are incurred and arise out of operations of the Business conducted after the Closing.

5.2.2 By Sellers. After the Closing and subject to Section 5.2.3, Sellers shall pro rata (based upon each Seller's percentage of the Shares sold hereunder) indemnify, defend and hold FOSS, BMC and the Subsidiaries, their directors, officers, employees, affiliates, successors and assigns, harmless from and against Loss in excess of $250,000 (as adjusted pursuant to Schedule 2.1.7) in the aggregate resulting from any misrepresentation, breach of warranty or covenant or non-fulfillment of any agreement on the part of Sellers hereunder which is not waived in writing expressly referencing this paragraph by FOSS at Closing.

5.2.3 Notice/Defense. Upon discovery of any breach or claim hereunder or upon receipt of any notice of any claim or suit subject to indemnification under Sections 5.2.1 or 5.2.2 above, the party seeking indemnification ("Indemnified Party") shall promptly give notice thereof (and in no event later than 20 days after receipt of actual notice thereof) to the party or parties from whom indemnification is sought ("Indemnifying Party") at the notice address pursuant to Section 7.4 stating in reasonable detail the representation, warranty or other claim with respect to which indemnity is demanded, the facts or alleged facts giving rise thereto, and the amount of liability or asserted liability with respect to which

indemnity is sought and in the case of a claim asserted against Indemnified Party shall thereafter tender to the Indemnifying Party the defense of such claim at the sole cost and expense of the Indemnifying Party. Despite such a tender of defense, the party seeking indemnification shall in any case have a right to participate in the defense of any such tendered claim or suit; provided that such participation shall be at such party's sole cost and expense after the Indemnifying Party has accepted such tender of defense. In the event that the Indemnifying Party does not promptly and affirmatively accept such tender of defense of any claim or suit, then the Indemnifying Party shall thereafter additionally become liable for all costs incurred by the party seeking indemnification (including reasonable attorneys' fees) in enforcing such indemnification claim and/or defending against such claim or suit which is subject to indemnification. No party which is entitled to indemnification under Sections 5.2.1 or 5.2.2 shall settle or compromise any such third party claim without the prior written consent of the party or parties from whom it seeks or may seek indemnification, which consent shall not be unreasonably withheld. Any party seeking indemnification under Sections 5.2.1 or 5.2.2 shall take all reasonable actions in the defense of third party claims for which indemnification is sought. If notice is not given to the Indemnifying Party as specified, or if any claim or suit be compromised or settled in any manner without the prior written consent (which consent shall not be unreasonably withheld) of the Indemnifying Party, then no liability shall be imposed upon the Indemnifying Party hereunder with respect to such claim.

5.2.4 Offsets. Without prejudice to, and not in limitation of, any other remedies or relief to which any Indemnified Party may be entitled to under this Agreement or otherwise, the Indemnifying Party agrees to pay to such Indemnified Party the amount of cash which would then be required to put such Indemnified Party in the position which it would have been in had such representation or warranty been true, correct and complete, or had such covenant or agreement been performed, complied with or fulfilled. For purposes of this Article V, "Loss" shall mean net loss to the Indemnified Party, after offsetting for net insurance proceeds, net tax benefits or other offsets received after the Closing by the Indemnified Party and directly relating to such Loss; provided, however, nothing herein shall permit or require offsets to be calculated by reference to, or authorize access to, the books of account or tax returns of any parent corporation of the Indemnified Party except as may be necessary to determine any applicable offset and the value of any net tax benefits shall be determined with reference to the present value thereof based upon the Prime Rate, then in effect by Bank of America, Portland, Oregon, main branch. It being understood that, to the extent a Loss for which payment is sought hereunder is compensated for by insurance for which the Indemnified Party is an insured or loss payee, the Indemnifying Party's indemnification liability hereunder is limited to the uninsured portion thereof as follows: (A) any amount which Indemnifying Party is obligated to pay Indemnified Party hereunder shall be reduced by the amount of net insurance proceeds received by Indemnified Party prior to such payment by Indemnifying Party with respect to the Loss for which such payment is sought hereunder; and (B) if, at any time after such payment is made by Indemnifying Party to Indemnified Party hereunder, Indemnified Party shall receive insurance proceeds with respect to the loss for which such payment was previously made

hereunder, such party shall reimburse to Indemnifying Party the amount by which the payment would have been reduced had such insurance been received prior to such payment by Indemnifying Party. All parties shall take all reasonable actions to preserve its or their rights to, and to obtain, any such insurance proceeds available with respect to any such Loss.

ARTICLE VI.

ABANDONMENT; AMENDMENT AND WAIVER

6.1 Abandonment. This Agreement may be terminated and the transactions contemplated hereby abandoned at any time prior to the Closing:

6.1.1 by written agreement between Sellers and FOSS;

6.1.2 by Sellers if any of the conditions set forth in Section 4.1 hereof shall not have been fulfilled and shall not have been waived pursuant to Section 6.2.2 hereof prior to December 31, 1993; and

6.1.3 by FOSS as provided in Sections 3.2.5 or 3.2.8, or if any of the conditions set forth in Section 4.2 hereof shall not have been fulfilled and shall have not been waived pursuant to Section 6.2.2 hereof prior to December 31, 1993.

In the event this Agreement is terminated and the transactions contemplated hereby are abandoned pursuant to this Section 6.1 above, this Agreement (other than the provisions hereof relating to the confidential treatment of information), shall become void and of no further force and effect, without any liability on the part of any of the parties hereto or their respective stockholders, directors or officers; provided, however, that if this Agreement is terminated pursuant to Section 6.1.2 or 6.1.3 above because a party hereto has not performed its covenants under Article III hereof with respect to the fulfillment of the conditions to Closing, the party terminating this Agreement shall be entitled to enforce any and all rights and remedies that it may have under Section 5.2, or at law or in equity against the other parties to this Agreement.

6.2 Amendment and Waiver.

6.2.1 Amendment. Sellers and FOSS may only amend this Agreement in writing at any time prior to the Closing.

6.2.2 Waiver. The provisions of this Agreement may be waived only in writing signed by the party or parties entitled to the benefit thereof. A waiver of any breach or failure to enforce any provision of this Agreement shall not in any way affect, limit or waive a party's rights hereunder at any time to enforce strict compliance thereafter with every provision of this Agreement.

ARTICLE VII.

MISCELLANEOUS

7.1 Further Assurances. Sellers shall, at any time and from time to time after the Closing Date, upon request of FOSS, do, execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and instruments, whether by or from Sellers or third parties, as FOSS may reasonably request in order to convey and transfer to and vest in FOSS, and protect its right, title and interest in and enjoyment of, the Shares and the Acquired Assets.

7.2 BMC and Subsidiaries. Sellers shall cause BMC and the Subsidiaries to take all action to be taken hereunder by BMC and the Subsidiaries and to refrain from taking all action to be refrained from hereunder by BMC and the Subsidiaries.

7.3 Finder's Fee. No party to this Agreement has dealt with any agent, broker or the like which may be entitled to any brokerage commission, financial advisory fee or other like payment or compensation ("Fee") in connection with the transactions contemplated by this Agreement. Sellers, jointly and severally agree to defend, indemnify and hold FOSS, BMC and the Subsidiaries harmless from any Fees to any person claimed to be engaged by Sellers, BMC or any Subsidiary in connection with the sale of BMC or its capital stock. FOSS agrees to defend, indemnify and hold Sellers harmless from any Fees to any person claimed to be engaged by FOSS in connection with the purchase of BMC or its capital stock.

7.4 Notices. All documents, notices, requests, demands and other communications that are required or permitted to be delivered or given under this Agreement shall be in writing and shall be deemed to have been duly delivered or given upon the delivery or mailing thereof, as the case may be, if delivered personally or three business days after mailing by registered or certified mail, return receipt requested, postage prepaid (or the closest local equivalent):

7.4.1 if to FOSS, to:

Foss Maritime Company
660 West Ewing
Seattle, WA 98119
Attention: President

with a copy to:

James G. Kibble, Esq.
Garvey, Schubert & Barer
1191 Second Avenue, 18th Floor
Seattle, Washington 98101-2939

7.4.2 and if to Sellers, as follows:

Peter J. Brix 3520 SE Chrystal Springs Blvd. Portland, OR 97202	Robert J. DeArmond 2619 Freedom Way Medford, OR 97504
Joseph and Sarah Tennant 2704 SW Sherwood Drive Portland, OR 97201	Ellison C. Morgan P.O. Box 2207 Portland, OR 97208
John B. Altstadt P.O. Box 25809 West Slope Branch Portland, OR 97225	Hayden Investment Corp. c/o Peter J. Brix 3520 SE Chrystal Springs Blvd. Portland, OR 97202

with a copy to:

_____

_____

_____

Attention: _____

or to such other person or address as a party hereto shall specify hereunder.

7.5 Expenses. Subject to Section 6.1 and the last sentence hereof, whether or not the transactions contemplated by this Agreement are consummated, Sellers and FOSS shall each pay all of its own fees and expenses incident to the negotiation, preparation, execution and performance of this Agreement, including the fees and expenses of their own counsel, accountants, investment bankers and other experts. All fees and expenses of BMC's counsel and accountants related hereto and incurred after July 13, 1993 shall be paid by Sellers.

7.6 Entire Agreement. This Agreement together with the side letter between Peter J. Brix and FOSS dated the date hereof constitutes the entire agreement and understanding of the parties with respect to the transactions contemplated hereby, supersedes any and all prior agreements and understandings relating to the subject matter hereof and may not be modified, amended or terminated except in writing signed by the parties to be bound thereby.

7.7 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of Oregon.

7.8 Parties in Interest. This Agreement shall be binding upon and shall inure solely to the benefit of the parties hereto and their respective successors, heirs, and assigns and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement. This Agreement shall not be assignable, directly or indirectly by any party

hereto without the prior written consent of the other parties; provided, however, that FOSS may assign this Agreement to a wholly-owned subsidiary without Sellers' or BMC's prior written consent so long as FOSS remains liable hereunder.

7.9 Captions. The caption headings of the Articles, Schedules, Exhibits, Sections and subsections of this Agreement are for convenience of reference only and are not intended to be, and should not be construed as, a part of this Agreement.

7.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which with all of the signature pages attached thereto or all executed copies taken together shall be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties hereto has duly executed this Agreement as of the date first above written.

FOSS

By _____
Its President & CEO

BMC

By _____
Its _____

SELLERS:

_____
Peter J. Brix

_____
Robert J. DeArmond

_____
Ellis C. Morgan, Individually

Ellison C. Morgan, Trustee of Management Partnership 401(k) Plan

Joseph Tennant

Sarah Tennant

John B. Altstadt

HAYDEN INVESTMENT CORPORATION

By_____

Its_____

EXHIBIT A

Seller	A Number of Shares	B Purchase Price
Peter J. Brix		$
Robert J. DeArmond		$
Ellison C. Morgan		$
Ellison C. Morgan, Trustee Management Partnership 401(k) Plan		$
John B. Altstadt		
Joseph and Sarah Tennant		$
Hayden Investment Corp.		$
Hayden Investment Corp. (subscribed)		

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SWW000419

COLLECTIVE BARGAINING AGREEMENTS
SCHEDULE 2.1.13(iii)

Union Organization	Brix Division	Term
Inland Boatmen's Union of the Pacific	Brix Maritime Co.	2/1/90 to 2/1/95
Inland Boatmen's Union of the Pacific	Brix Maritime Barging Inc.	2/1/92 to 1/31/93 (then Evergreen)
International Organization of Master, Mates & Pilots - Pacific Maritime Region	Brix Maritime Barging, Inc.	1/1/93 to 10/1/97
International Longshoremen's & Warehousemen's Union	Brix Maritime Co.	9/1/89 to 8/31/93

FILED

SEP 29 1982 1:30P

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Merger Agreement") made and entered into as of the 29th day of September, 1982 by and between Knappton Corporation ("New Knappton"), a corporation organized and existing under the laws of the State of Delaware, and Knappton Corporation ("Knappton"), a corporation organized and existing under the laws of the State of Washington, said New Knappton and Knappton hereinafter sometimes referred to collectively as the "Constituent Corporations."

WITNESSETH:

WHEREAS, the authorized capital stock of New Knappton consists of 1,000 shares of common stock, par value $1.00 per share, of which 1,000 shares were outstanding as of July 30, 1982 and held by Twin City Barge, Inc. ("TCB"), a Delaware corporation.

WHEREAS, the authorized capital stock of TCB consists of 6 million shares of common stock, par value $1.00 per share ("TCB Common Stock"), of which approximately 2.1 million shares were outstanding as of June 30, 1982 with approximately 140,000 additional shares held in treasury; and 10,000 shares of preferred stock, par value $1,000.00 per share, of which no shares were issued or outstanding at June 30, 1982.

WHEREAS, the authorized capital stock of Knappton consists of 400,000 shares of common stock, no par value, of which 95,045.7 Class A voting and 39,634.74 Class B nonvoting shares were outstanding as of July 30, 1982 with 40,187 additional Class A voting shares and 575.84 additional Class B nonvoting shares held in treasury.

WHEREAS, concurrently with the execution and delivery of this Merger Agreement, TCB, New Knappton, Knappton, and certain stockholders of Knappton (the "Stockholders") are entering into a supplemental agreement dated as of the date hereof (the "Supplemental Agreement") setting forth certain representations, warranties, conditions and agreements relating to the merger provided for herein (the "Merger").

WHEREAS, it is intended that the Merger take place pursuant to the laws of the States of Delaware and Washington (as applicable to the respective Constituent Corporations), and qualify as a Reorganization contemplated at Sections 368(a)(1)(A) and 368(a)(2)(D) of the Internal Revenue Code.

WHEREAS, the respective Boards of Directors of New Knappton, Knappton, and TCB deem the Merger desirable and in the best interests of their respective stockholders; the respective Boards of Directors of New Knappton and Knappton have duly adopted resolutions approving this Merger Agreement and directing that the same be submitted to their respective stockholders for consideration and approval or rejection; and the Board of Directors of TCB has duly adopted resolutions approving the Merger Agreement without need for approval by TCB's stockholders.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained herein, and for the purpose of prescribing the terms and conditions of the Merger, the mode of carrying the same into effect, the manner of converting the shares of Knappton capital stock into cash and securities of TCB, and such other provisions as are deemed necessary or desirable, the parties hereto have agreed and do hereby agree, subject to the terms and conditions hereinafter set forth, as follows.

ARTICLE I

In accordance with the provisions of this Merger Agreement and the applicable statutes of the States of Delaware and Washington, Knappton will be merged with and into New Knappton, which will be and is herein sometimes referred to as the "Surviving Corporation" and the name of which will remain unchanged.

ARTICLE II

This Merger Agreement having been duly approved by the respective Boards of Directors of TCB and each of the Constituent Corporations, and by the respective stockholders of each of the Constituent Corporations, the Merger will become effective (the "Effective Time of Merger") upon filing as provided in the applicable statutes of the States of Delaware and Washington. For corporate accounting purposes, however, TCB and New Knappton may show the Merger to be effective from the first day of any month within the 30 days immediately preceding the approval of the Merger by the respective stockholders of each of the Constituent Corporations.

ARTICLE III

As of the Effective Time of Merger, by virtue of the Merger and without any action on the part of the holder of any share of capital stock of either of the Constituent Corporations:

Section 1. All shares of capital stock of Knappton (the "Knappton Shares") that are held as treasury stock and any Knappton Shares owned by TCB or any subsidiary of TCB will be cancelled, and no securities of any corporation or cash or other property will be delivered in exchange therefor under this Merger Agreement.

Section 2. All other issued and outstanding Knappton Shares will be exchanged automatically for cash and securities of TCB in accordance with Sections 3 and 4 below. The shares of TCB Common Stock to be so exchanged will be rounded up or down to a full share of TCB Common Stock to eliminate fractional shares, and will include all shares of TCB Common Stock held as treasury stock.

Section 3. In the event all 134,680.44 currently issued and outstanding Knappton Shares are exchanged in the Merger, the cash and securities of TCB exchanged therefor in the Merger will be as follows:

Exchange Schedule

From TCB	For Each Knappton Share	For All Knappton Shares in the Aggregate
(i) Shares of TCB Common Stock, par value $1.00 per share.	6.170161 Shs.	831,000 Shs.
(ii) Cash on closing.	$11.73668865	$1,580,702

Section 4. In the event less than all 134,680.44 currently issued and outstanding Knappton Shares are exchanged in the Merger, whether due to prior redemption by Knappton or otherwise, the aggregate amount of cash on closing and the aggregate number of shares of TCB Common Stock described at Section 3 above will be reduced pursuant to the following calculation:

(i) The amount of $3,550,000 will be reduced by the amount paid by Knappton in so reducing the number of Knappton Shares to be exchanged in the Merger;

(ii) The aggregate amount of cash on closing will be determined by dividing $1,300,000 by a fraction the numerator of which is 110,763.78 and the denominator of which is the number of Knappton Shares remaining for exchange in the Merger;

(iii) The aggregate number of shares of TCB Common Stock to be exchanged in the Merger, excluding a constant base of 700,000 shares, will be determined by subtracting the result of step (ii) above from the result of step (i) above and then dividing the balance by 15.

In any event each Stockholder currently owning more than five percent of the Knappton Shares will so exchange all of his Knappton Shares in the Merger. Further, the total of (x) all redemption payments so made by Knappton, (y) the result of step (ii) above, and (z) the number of shares calculated at step (iii) above times $15 (excluding the constant base of 700,000 shares) will equal $3,550,000. To give effect to the cost of any such redemption, an appropriate adjustment will be made in the number of shares of TCB Common Stock issued for each Knappton Share that remains for exchange in the Merger.

ARTICLE IV

Section 1. The cash and securities to be issued by TCB in connection with the Merger will be deemed issued at the Effective Time of Merger. After the Effective Time of Merger, upon the surrender by the stockholders of Knappton to the Secretary of TCB (the "Exchange Agent") of the certificate or certificates that prior to the Effective Time of Merger evidenced ownership of Knappton Shares, the Exchange Agent will deliver to such former owners of Knappton Shares the cash and securities of TCB to which they are entitled pursuant to Article III hereof. After the Effective Time of Merger, the Knappton Shares will cease to be shares of stock of Knappton, regardless of whether surrendered. Until so surrendered, each certificate evidencing ownership of Knappton Shares at the Effective Time of Merger will be deemed to evidence the ownership of the cash and securities of TCB to be exchanged therefor in the Merger. No dividends or interest with respect to TCB securities exchanged in the Merger will be paid to holders of any unsurrendered certificate evidencing ownership of Knappton Shares at the Effective Time of Merger, however, until such holder surrenders such certificate. In no event will such holder entitled to receive such dividends or interest be entitled to receive any interest thereon, or any interest upon the cash he is entitled to receive pursuant to Article III hereof. If any TCB securities are to be issued in a name other than the name in which the certificate for Knappton Shares surrendered in exchange therefor is registered, as a condition to such change the person requesting the change will pay to the Exchange Agent any transfer or other taxes required

by reason of the issuance of TCB securities in a name other than the registered holder of the certificate surrendered, or will establish to the satisfaction of the Exchange Agent that such tax has been paid or is not applicable. Notwithstanding the foregoing, neither the Exchange Agent nor either of the Constituent Corporations or TCB will be liable to a holder of Knappton Shares for any cash or TCB securities or dividends or interest thereon delivered to a public official pursuant to any applicable abandoned property, escheat, or similar law.

Section 2. At the Effective Time of Merger, the stock transfer books of Knappton will be closed, and no transfer of Knappton Shares will thereafter be made.

ARTICLE V

At the Effective Time of Merger, the Certificate of Incorporation of New Knappton will continue to be its Certificate of Incorporation. Until further altered or amended as provided therein or as provided by law, said Certificate of Incorporation will constitute the Certificate of Incorporation of the Surviving Corporation. Such Certificate of Incorporation, separate and apart from this Merger Agreement and from the Supplemental Agreement, will be, and may be separately certified as, the Certificate of Incorporation of New Knappton as the Surviving Corporation. From and after the Effective Time of Merger, the Surviving Corporation reserves the right to amend, alter, change or repeal its Certificate of Incorporation as therein provided.

ARTICLE VI

Section 1. The By-Laws of New Knappton as in effect at the Effective Time of Merger will be the By-Laws of the Surviving Corporation from and after the Effective Time of Merger until duly altered, amended or repealed.

Section 2. The directors and officers of New Knappton as the Surviving Corporation immediately after the Effective Time of Merger will be as follows, to serve until their respective successors are elected and qualified:

Directors

Peter J. Brix
James B. Thayer
Ben E. Fellows

Officers

Peter J. Brix	President and Chief Executive Officer
Edward S. Beall	Executive Vice President and Chief Operating Officer
Robert J. Hasler	Senior Vice President
Robert A. Hindman	Senior Vice President and Treasurer
Fred O. Meyer	Senior Vice President
J. Michael Wallace	Vice President
Wendy M. Anderson	Secretary

The directors and officers designated will so serve without further action by the Boards of Directors or shareholders of TCB and the Constituent Corporations.

Section 3. If at the Effective Time of Merger a vacancy exists on the Board of Directors or in any of the offices of New Knappton, the vacancy may thereafter be filled in the manner provided in the By-Laws of the Surviving Corporation.

ARTICLE VII

Section 1. Certain conditions precedent to the consummation of the Merger, as well as the representations, warranties and agreements of the parties made in connection with this Merger Agreement, are set forth in the Supplemental Agreement.

Section 2. This Merger Agreement may be terminated or abandoned, at any time prior to the filing of the Merger Agreement with the respective Secretaries of State of the States of Delaware and Washington, by the Boards of Directors of either New Knappton or Knappton, whether prior to or after approval of this Merger Agreement by the stockholders of Knappton and New Knappton, in the event of (a) the mutual written agreement of both such Boards of Directors or (b) termination of the Supplemental Agreement.

ARTICLE VIII

At the Effective Time of Merger, without further action, the separate existence of Knappton will cease, and the corporate existence and identity of New Knappton as the Surviving Corporation will continue under the name specified in its Certificate of Incorporation. New Knappton will have all of the rights, privileges, immunities and powers and will be subject to all the duties and liabilities of a corporation organized under the State of Delaware General Corporation Law. New Knappton will thereupon and thereafter, to the extent consistent with its Certificate of Incorporation, possess all the rights, privileges, immunities, and franchises as well of a public as of a private nature of each of the Constituent Corporations; all property, real, personal, and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest, of or belonging to or due to each of the Constituent Corporations, will be taken and deemed to be transferred to and vested in New Knappton without further act or deed; and the title to any real estate, or any interest therein, vested in any of the Constituent Corporations will not revert or be in any way impaired by reason of the Merger.

New Knappton will thenceforth be responsible and liable for all the liabilities and obligations of each of the Constituent Corporations; and any claim existing or action or proceeding pending by or against any of the Constituent Corporations may be prosecuted to judgment as if the Merger had not taken place, or New Knappton may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any of the Constituent Corporations will be impaired by the Merger.

ARTICLE IX

From time to time at and after the Effective Time of Merger as and when requested by New Knappton, or by its successors or assigns, the last acting officers of Knappton will execute and deliver or cause to be executed and delivered all such deeds and other instruments, and will take or cause to be taken all such further or other actions in the name of Knappton, as New Knappton, and its successors or assigns, may deem necessary or desirable in order to vest in and confirm to New Knappton and its successors or assigns title to and possession of all the property, rights, privileges, powers and franchises referred to in Article VIII hereof and otherwise to carry out the intent and purposes of this Merger Agreement. If New Knappton will at any time deem that any further assignments or assurances of law or any other acts are necessary or desirable to vest, perfect or confirm of record or otherwise the title to any property or to enforce any claims of Knappton acquired pursuant to this Merger Agreement, the officers of New Knappton at that time are hereby specifically authorized as attorneys-in-fact of Knappton, and each of them (this appointment being irrevocable as one coupled with an interest), to execute and deliver any and all such proper deeds, assignments and assurances of law and to do all such other acts, in the name and on behalf of New Knappton or otherwise, as such officers may deem necessary or appropriate to accomplish such end.

ARTICLE X

For the convenience of the parties hereto and to facilitate the filing and recording of this Merger Agreement, any number of counterparts hereof may be executed, and each such counterpart will be deemed to be an original instrument, and all such counterparts will together constitute the same agreement.

This Merger Agreement will not be altered or otherwise amended except pursuant to an instrument in writing executed and delivered on behalf of each of the parties hereto, which instrument, when so executed and delivered, will thereupon become a part of this Merger Agreement, and the provisions thereof will be given effect as if contained in this Merger Agreement at the date hereof.

This Merger Agreement and the legal relations between the parties hereto will be governed by and construed in accordance with the laws of the State of Delaware, except as otherwise required.

Except as otherwise specifically provided herein, nothing expressed or implied in this Merger Agreement is intended, or will be construed, to confer upon or give any person, firm or corporation, other than the Constituent Corporations and their respective stockholders, any rights or remedies under or by reason of this Merger Agreement.

IN WITNESS WHEREOF, each of the Constituent Corporations, pursuant to the approval and authority duly given by resolutions adopted by their respective Boards of Directors, has executed this Merger Agreement as of the date first above written.

[SEAL]

KNAPPTON CORPORATION
(Delaware)

By _____
John W. Lambert
President

ATTEST:

_____
Robert E. Maher
Secretary

Signatures of Directors:

_____
John W. Lambert

_____
John A. McFarland

_____
Robert E. Maher

Being a majority of the members of the Board of Directors of Knappton Corporation, a Delaware corporation.

SWW000432

[SEAL]

KNAPPTON CORPORATION
(Washington)

By _____
Peter J. Brix
President

ATTEST:

_____
Wendy M. Anderson
Secretary

Signatures of Directors:

_____
Peter J. Brix

_____
James B. Thayer

_____
John B. Altstadt

Being a majority of the members of the Board of Directors of Knappton Corporation, a Washington corporation.

CERTIFICATION

I, Robert E. Maher, hereby certify that I am the duly elected, qualified, and acting secretary of Knappton Corporation, a Delaware corporation (the "Corporation"); that I have in my custody the minutes of meetings and consents in lieu thereof of the Board of Directors and stockholders of the Corporation; and that I am duly authorized to make this certification on its behalf.

I further certify that, after the foregoing Agreement and Plan of Merger (the "Merger Agreement") was duly signed by a majority of the members of the Board of Directors of the Corporation, notice of a special meeting of the stockholders of the Corporation was given, such meeting was held on August 20, 1982, and shares representing at least two-thirds of the outstanding shares of common stock of the Corporation including all shares entitled to vote at the meeting were voted in favor of the adoption of the Merger Agreement, all in accordance with the provisions of the Delaware General Corporation Law; and that by said stockholder vote the Merger Agreement was duly approved by the stockholders of the Corporation.

Dated: August 20, 1982

Robert E. Maher
Secretary
Knappton Corporation, a
Delaware corporation

CERTIFICATION

I, Wendy M. Anderson, hereby certify that I am the duly elected, qualified, and acting secretary of Knappton Corporation, a Washington corporation (the "Corporation"); that I have in my custody the minutes of meetings and consents in lieu thereof of the Board of Directors and stockholders of the Corporation; and that I am duly authorized to make this certification of its behalf.

I further certify that, after the foregoing Agreement and Plan of Merger (the "Merger Agreement") was duly signed by a majority of the members of the Board of Directors of the Corporation, notice of a special meeting of the stockholders of the Corporation was given, such meeting was held on August 16,1982, and shares representing at least two-thirds of the outstanding shares of common stock of the Corporation including all shares entitled to vote at the meeting were voted in favor of the adoption of the Merger Agreement, all in accordance with the provisions of the Washington Business Corporation Act; and that by said stockholder vote the Merger Agreement was duly approved by the stockholders of the Corporation.

Dated: August 20, 1982

Wendy M. Anderson
Secretary
Knappton Corporation, a
Washington corporation

EXECUTION AND ACKNOWLEDGEMENT

The foregoing Agreement and Plan of Merger ("Merger Agreement"), having been executed by the President and Secretary and a majority of the members of the Board of Directors of each party thereto (collectively, the "Constituent Corporations") and having been adopted by the stockholders of each Constituent Corporation in accordance with the requirements of the state of incorporation of each Constituent Corporation, and that fact having been certified by the Secretary of each Constituent Corporation, the President and Secretary of each Constituent Corporation hereby execute the Merger Agreement on behalf of their respective corporations this 23rd day of September, 1982.

[SEAL]

KNAPPTON CORPORATION
(Delaware)

By John W. Lambert
John W. Lambert
President

ATTEST:

Robert E. Maher
Robert E. Maher
Secretary

STATE OF MINNESOTA)
) SS
COUNTY OF DAKOTA)

On this 23rd day of September, 1982, before me appeared John W. Lambert, to me personally known, who, being by me duly sworn did say that he is the President of Knappton Corporation, a Delaware corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged said instrument to be the free act and deed of the corporation.

Charlene Danich
Notary Public

My Commission expires:

CHARLENE DANICH
DAKOTA COUNTY
MY COMM. EXPIRES SEPT. 14, 1985

SWW000436

[SEAL]

KNAPPTON CORPORATION
(Washington)

By _____
Peter J. Brix
President

ATTEST:

_____
Wendy M. Anderson
Secretary

STATE OF OREGON)
) SS
COUNTY OF MULTNOMAH)

On this 27th day of September, 1982, before me appeared Peter J. Brix, to me personally known, who, being by me duly sworn did say that he is the President of Knappton Corporation, a Washington corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged said instrument to be the free act and deed of the corporation.

_____
Notary Public

My commission expires:

3-19-84

FILED

AUG 11 1988

TWIN CITY BARGE, INC.

CERTIFICATE OF AMENDMENT OF

RESTATED CERTIFICATE OF INCORPORATION

Twin City Barge, Inc. (the "Corporation"), a corporation organized and existing by virtue of the General Corporation Law of the State of Delaware,

DOES HEREBY CERTIFY THAT:

FIRST: At a meeting of the Board of Directors of the Corporation held March 4, 1988, resolutions were duly adopted setting forth proposed amendments to the Restated Certificate of Incorporation of the Corporation declaring said amendments to be advisable. The Resolutions setting forth the proposed amendments are as follows:

> RESOLVED that the Board of Directors proposes the amendment of the Restated Certificate of Incorporation of the Company to reduce the authorized capital of the Company from 12.5 million shares of common stock, $1 par value, and 10,000 shares preferred stock, $1,000 par value to five million shares of common stock, $1 par value, and that Paragraph FOURTH of the Restated Certificate of Incorporation of Twin City Barge, Inc. be amended to read as follows:
>
> > FOURTH: The total number of shares of stock which the Corporation shall have authority to issue is five million (5,000,000), consisting of common stock having a par value of $1 per share. Each share of stock shall be entitled to one vote on any corporate action requiring a vote of stockholders,

and the Corporation is prohibited from issuing any nonvoting stock or other nonvoting equity securities.

RESOLVED that the Board of Directors proposes that the provisions in the Restated Certificate of Incorporation of the Company permitting the reorganization of the Company by the Delaware courts, be deleted and that the provisions in the Restated Certificate of Incorporation providing staggered terms for Directors of the Company be deleted, and that Paragraph FIFTH of the Restated Certificate of Incorporation of Twin City Barge, Inc. be amended to read as follows:

> FIFTH: (i) In furtherance and not in limitation of the power conferred by statute, the Board of Directors is expressly authorized to make, alter or repeal the Bylaws of the Corporation.
>
> (ii) Elections of Directors of the Corporation need not be by ballot, unless the Bylaws of the Corporation shall so provide.

RESOLVED that the Board of Directors proposes the amendment of the Restated Certificate of Incorporation of the Company . . . a new Paragraph SIXTH be added to the Restated Certificate of Incorporation of Twin City Barge, Inc., which shall read as follows:

> SIXTH: A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director. This paragraph SIXTH does not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve personal misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which

the director derived an improper personal benefit.

SECOND: At a meeting of the Board of Directors of the Corporation held March 31, 1988, a Resolution was duly adopted setting forth a further amendment to the Restated Certificate of Incorporation of the Corporation declaring that such was advisable. The Resolution setting forth the proposed amendment reads as follows:

> RESOLVED that the Board of Directors proposes the amendment to the Restated Certificate of Incorporation of the Company to change the name of the Company from Twin City Barge, Inc. to Brix Maritime Co. and that Paragraph FIRST of the Restated Certificate of Incorporation of Twin City Barge, Inc. be amended to read as follows:
>
> FIRST: The name of the Corporation is Brix Maritime Co.

THIRD: Thereafter, pursuant to Section 222 of the Delaware General Corporation Law, the Annual Meeting of Shareholders was held July 19, 1988. After determining a quorum was present, in person or by proxy, a majority of the outstanding stock entitled to vote thereon, in person or by proxy, voted in favor of said Amendments.

FOURTH: A report of the Inspector of Elections indicating the outcome of votes tallied in connection with the corporate action regarding the proposed amendments was given promptly to those shareholders in person and was made a part of the Minutes of the Annual Meeting.

FIFTH: Said Amendments were duly adopted in accordance

with the provisions of Sections 222 and 242 of the Delaware General Corporation Law.

SIXTH: The capital of the Corporation shall not be reduced under or by reason of said Certificate of Amendment.

IN WITNESS WHEREOF, said Corporation has caused this Certificate of Amendment of the Restated Certificate of Incorporation to be signed by Peter J. Brix, its President, and Robert A. Hindman, its Secretary, this 19th day of July, 1988.

President

ATTEST:

Secretary

46570-47124(7690)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:

TWIN CITY BARGE, INC.,	Case No. BKY 4-87-1550 (K)
TWIN CITY BARGE & TOWING CO.	Case No. BKY 4-87-1551 (K)
Debtors.	

ORDER CONFIRMING PLAN

A plan as filed or modified by the debtor (if debtors are named above then "debtor" herein means debtors) has been duly transmitted to all creditors and all other parties in interest accompanied by a disclosure statement approved by the court. It is now hereby determined after hearing on notice that: (1) the plan has been accepted in writing by the creditors and equity security holders whose acceptance is required by law; (2) the provisions of Chapter 11 of the Code have been complied with and the plan has been proposed in good faith and not by any means forbidden by law; (3) each holder of a claim or interest has accepted the plan or will receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtor were liquidated under Chapter 7 of the Code on such date or the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under and has not accepted the plan; (4) all payments

NOTICE OF ENTRY AND FILING ORDER OR JUDGMENT
Filed and Docket Entry made on 11/20/87
Timothy R. Walbridge, Clerk By KK

SWW001789

made or promised by the debtor or by a person issuing securities or acquiring property under the plan or by any other person for services or for costs and expenses in, or in connection with, the plan and incident to the case, have been fully disclosed to the court and are reasonable or, if to be fixed after confirmation of the plan, will be subject to the approval of the court; (5) the identity, qualifications, and affiliations of the persons who are to be directors or officers, or voting trustees if any, of the debtor or an affiliate of the debtor participating in a joint plan with the debtor or a successor to the debtor under the plan, after confirmation of the plan, have been fully disclosed, and the appointment of such persons to such offices, or their continuance therein, is equitable and consistent with the interests of the creditors and equity security holders and with public policy; (6) the identity of any insider that will be employed or retained by the debtor and his compensation have been fully disclosed; (7) the plan is subject to applicable regulatory commissions if any with respect to rates; and (8) confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan;

IT IS THEREFORE ORDERED:

1. Confirmation. The plan as filed or modified by the debtor dated September 10, 1987, and filed September 16, 1987, is confirmed and the provisions of the plan bind the debtor and all other entities to the extent provided in 11 U.S.C. § 1141(a).

2. Property. Except as otherwise provided in the plan, all property of the estate is vested in the debtor to the extent provided in 11 U.S.C. § 1141(b) and except as otherwise provided in the plan or applicable law, property dealt with by the plan is free and clear of all claims and interests of creditors and other entities to the extent provided in 11 U.S.C. § 1141(c).

3. Discharge. Except as otherwise provided in the plan, the debtor is discharged from all debts dischargeable under 11 U.S.C. § 1141(d) and such discharge voids any judgment and operates as an injunction to the extent provided in 11 U.S.C. § 524(a).

4. Notice: Consummation. The debtor is directed to carry out and consummate the plan under 11 U.S.C. § 1142 and Bankruptcy Rule 3021. The clerk shall mail copies of this order as notice thereof to the entities specified in Local Rule 125(a).

Dated: November 18, 1987.

BY THE COURT:

Robert J. Kressel
Judge of Bankruptcy Court

TCB
TWIN CITY BARGE, INC.

BEN E. FELLOWS
President
(612) 450-4723

June 29, 1982

TO THE STOCKHOLDERS OF KNAPPTON CORPORATION

c/o Mr. Peter J. Brix
President
Knappton Corporation
9030 N.W. St. Helens Rd.
Portland, OR 97203

Reference: Merger of Knappton Corporation

Gentlemen:

This letter summarizes the agreement that has been reached between Twin City Barge, Inc., a Delaware corporation ("TCB"), and the beneficial owners of no less than 90 percent of the outstanding shares of capital stock (the "Stockholders") of Knappton Corporation, a Washington corporation ("Knappton"), concerning the merger of Knappton into a wholly owned subsidiary of TCB (the "Merger").

1. The Merger.

1.1. A wholly owned subsidiary of TCB, organized as a Delaware corporation, will have the corporate name Knappton Corporation ("New Knappton"). Knappton will be merged into New Knappton, and in the Merger no less than 90 percent of the issued and outstanding shares of capital stock of Knappton, consisting of Class A and Class B common stock (the "Knappton Stock"), will be exchanged solely for the cash and securities of TCB described in the following schedule. The shares of TCB common stock (the "TCB Common Stock") to be so exchanged will be rounded as to each Stockholder so that no fractional shares will be issued. In the event all 134,680.44 currently issued and outstanding shares of the Knappton Stock are exchanged in the Merger, the cash and securities of TCB exchanged in the Merger will be as follows:

KEY DOCUMENT

SWW003088

Exchange Schedule

From TCB	For Each Share of Knappton Stock	For All Shares of Knappton Stock in the Aggregate
(i) Shares of TCB Common Stock, par value $1.00 per share.	6.170161 Shs.	831,000 Shs.
(ii) Cash on closing.	$11.724048	$1,579,000

1.2. In the event less than all 134,680.44 of the shares of Knappton Stock are exchanged in the Merger, whether due to prior redemption by Knappton or otherwise, the aggregate amount of cash on closing and the aggregate number of shares of TCB Common Stock described at Paragraph 1.1 above will be reduced pursuant to the following calculation:

(i) The amount of $3,550,000 will be reduced by the amount paid by Knappton in so reducing the number of shares of Knappton Stock to be exchanged in the Merger;

(ii) The aggregate amount of cash on closing will be determined by dividing $1,300,000 by a fraction the numerator of which is 110,763.78 and the denominator of which is the number of shares of Knappton Stock remaining for exchange in the Merger;

(iii) The aggregate number of shares of TCB Common Stock to be exchanged in the Merger, excluding a constant base of 700,000 shares, will be determined by subtracting the result of step (ii) above from the result of step (i) above and then dividing the balance by 15.

In any event (i) each Stockholder currently owning more than five percent of the Knappton Stock will so exchange all of his Knappton Stock in the Merger and (ii) the total of (x) all redemption payments so made by Knappton, (y) the result of step (ii) above, and (z) the number of shares calculated at step (iii) above times $15 (excluding the constant base of 700,000 shares) will equal $3,550,000. To give effect to the cost of any such redemption, an appropriate adjustment will be made in the number of shares of TCB Common Stock issued for each share of Knappton Stock that remains for exchange in the Merger.

1.3. It is contemplated that the Merger will be an "A" Reorganization under Section 368(a)(1)A of the Internal Revenue Code. As a condition to the Merger, Messrs. Lord, Bissell & Brook, attorneys for TCB, will deliver their opinion to the Stockhold and to Knappton that the form and structure of the Merger satisfy all requirements for the form and structure of a Reorganization pursuant to Section 368(a)(1)A.

2. Representations and Warranties. The following representatio and warranties will be given in customary form by TCB and by the Stockholders (as used at this Section 2, the term "Knappton" includes Knappton and each of its consolidated subsidiaries:

By TCB.

2.1. TCB is a reporting company under the Securities Exchange Act of 1934. TCB and its directors and executive officers would be responsible thereunder to the Stockholders for any material statements made by them that were false and misleading, and for any failure by them to disclose material information.

2.2. New Knappton will have no assets and no liabilities at the time the Merger becomes effective, including but not limited to assets and liabilities that are accrued or contingent but excepting in any event the assets and liabilities of New Knappton that will arise by reason of the Merger.

By the Stockholders.

2.3. All financial statements of Knappton delivered to TCB (the "Financial Statements") are complete and correct, and to the best knowledge of the Stockholders after due investigation were prepared in accordance with generally accepted accounting principles consistently applied. The Financial Statements consist of Knappton's audited consolidated financial statements at December 31, 1981 and 1980 and for the two years then ended, with the later year financial statements certified by Messers. Coopers & Lybrand on March 12, 1982.

2.4. There have been no developments subsequent to December 31, 1981 that would cause the Financial Statements to be misleading in any material respect.

2.5. From December 31, 1981 and so long as this letter agreement continues in effect, the business of Knappton will be conducted only in the ordinary course and no distribution will be made to or on behalf of the Stockholders. For this purpose, the term "distribution" means (i) all dividends and transfers based upon stock ownership, (ii) all bonuses, and (iii) all other payments except payments in the ordinary course for goods and services. It is understood and agreed that Knappton may redeem shares of its common stock for cash at approximately book value notwithstanding the provisions set forth at this Paragraph 2.5.

2.6. There are no employment agreements for any of the officers, directors, or employees of Knappton, and no such agreements will be entered into without the prior written consent of TCB or New Knappton. Collective bargaining agreements in the ordinary course of business with employees who are neither officers nor directors of Knappton are excepted from the representations and warranties at this Paragraph 2.6.

2.7. In proportion to their beneficial ownership of shares of Knappton Stock, the Stockholders will indemnify and hold TCB and all existing or future corporate affiliates of TCB harmless agains and in respect of (i) any and all liabilities or claims resulting from any liability of or claim against Knappton of any nature that is accrued, absolute, contingent, or existing at the date of closing for the Merger to the extent not reserved against in the Financial Statements; (ii) any loss, damage, expense or deficiency resulting from any misrepresentation, breach of warranty, or non-fulfillment of any agreement on the part of Knappton or the Stockholders or any of them; and (iii) all actions, suits, proceedings, demands, assessments, judgments, court costs, and direct expenses including but not limited to penalties, interest, and attorneys fees incident to the foregoing clauses (i) and (ii). It is understood and agreed that the Stockholders obligation to so indemnify and hold harmless will be consistent with the four standards set forth below:

I. The amount of cash and securities that TCB has agreed to exchange in the Merger is based in large part upon the Financial Statements. Indemnification will be required to the extent that the Financial Statements do not correctly disclose the assets, liabilities, income, and expense of Knappton at the dates indicated. Examples of items so subject to indemnity are an asset recorded on a balance sheet in an amount in excess of true value (including but not limited to an account receivable that becomes uncollectible subsequent to a balance sheet date);

a known or unknown liability relating to a transaction or event that occurred prior to a balance sheet date but that is not recorded on the balance sheet; an item of income recorded in an income statement that is attributable to a period other than the period of the income statement; and an item of expense that is attributable to the period of an income statement but that is not recorded in the income statement.

II. A balance sheet and income statement will be prepared at the end of the month preceding the effective date of the Merger (the "Closing Statements"). Transactions during the period from the date of the Financial Statements to and including the date of the Closing Statements and during the period from the date of the Closing Statements to and including the date of closing for the Merger will be reviewed by TCB to determine whether the transactions were in the ordinary course of business. Indemnification will be required for any transaction so determined to be not in the ordinary course of business.

III. As to the Closing Statements, indemnification will be required to the extent that the Closing Statements do not correctly disclose the assets, liabilities, income, and expense of Knappton at the date of the Closing Statements.

IV. If unusual in nature or amount or not in the ordinary course of business, any liability or obligation of which any of the Stockholders or Knappton have knowledge but which is not recorded in the Closing Statements will be disclosed to TCB. Disclosure in the Closing Statements or otherwise, however, does not exempt the liability or obligation from indemnification pursuant to the standards at Items I, II; or III above.

It is understood and agreed that the Stockholders will be required to so indemnify and hold harmless in accordance with the standards at Items I, II, and III above, but only in respect to liabilities, claims, and other deficiencies that in the aggregate exceed ten percent of the total stockholders' equity of Knappton set forth in the Financial Statements at December 31, 1981. Further, any indemnification so required from the Stockholders will be reduced by "equivalent reductions" in the consolidated stockholders'

equity of TCB. The term "equivalent reductions" is defined to mean liabilities of TCB, claims against TCB, and other deficiences of TCB that are measured by standards parallel to the standards for the Stockholders at Items I, II, and III above and that in the aggregated exceed 10 percent of the consolidated stockholders equity of TCB at December 31, 1981. Any changes in the consolidated stockholders' equity of TCB resulting from the Merger or from the operations of New Knappton following the Merger will be eliminate before calculating such "equivalent reductions."

3. Restricted Securities.

3.1. Each Stockholder has represented and warranted to TCB and does hereby represent and warrant that:

(i) He has an association with and knowledge of TCB that brings to his attention the kind of information that might otherwise be made available in the form of a registration statement, and he has access to all such information by reason of this association with TCB.

(ii) He is acquiring the foregoing securities of TCB for investment and not with a view to redistribution or resale and with no present intention of selling or distributing the same.

3.2. All parties hereto acknowledge that the TCB securities to be exchanged in the Merger are being issued partly in reliance upon the exemption from registration at §4(2) of the Securities Act of 1933 for transactions by an issuer not involving any public offering. Certificates or other instruments representing the securities accordingly will include the following legend:

> The securities represented hereby have been acquired for investment and have not been registered under the Securities Act of 1933 or the securities laws of any State. The securities may not be sold, transferred, pledged or otherwise disposed of without such registration, or the receipt by the issuer of an opinion of counsel in form satisfactory to the issuer that such registration is not required.

TCB undertakes at its sole cost to cause the legend set forth at this Paragraph 3.2 to be removed from certificates representing shares of TCB Common Stock exchanged in the Merger in the event any Stockholder so requests, after the shares cease to be restricted

securities. Except as otherwise required by applicable securities laws for ten percent stockholders, directors, and officers of TCB, it is anticipated that the shares will cease to be restricted securities no less than two nor more than five years after the Merger becomes effective.

3.3. Because issued in a transaction by an issuer not involving any public offering, the securities of TCB to be exchanged in the Merger are acknowledged by all parties hereto to be restricted securities. Each Stockholder undertakes and agrees not to sell any of the shares of TCB in a transaction that might be deemed a distribution or public offering except after complying with the requirements set forth in the legend at Paragraph 3.2 above. Methods of so complying in respect to shares of TCB Common Stock include but are not limited to the following:

(i) Rule 144 -- Each Stockholder will have the right to sell all or any part of the shares of TCB Common Stock issued to him in the Merger through compliance with Rule 144 of the Securities and Exchange Commission. TCB undertakes to file all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934, so as to satisfy such a condition for sales under Rule 144.

(ii) Piggy-Back Privilege -- In the event TCB registers any of its securities for an underwritten sale under the Securities Act of 1933 during the two year period immediately following the Merger, whether as an original issue or as a secondary offering, each Stockholder will have the right to include in the same registration any shares of TCB Common Stock issued to him in the Merger, so long as the form and amount of offering for such shares is compatible with the form and amount of offering for the other securities and so long as the Stockholder accepts customary securities law responsibilities and liabilities for participating in a registration. Stockholders participating in any such registration will be charged their share of underwriting discounts and commissions and their share of out-of-pocket costs and expenses that are allocated and measured by the number or amount of the securities being registered.

(iii) Short Form Registration Statement -- In the event the participating Stockholders so direct at any time during the two years immediately following the Merger, TCB will prepare and cause to be made effective a short form registration statement for not less than 100,000 nor more than 200,000 of the shares of TCB Common Stock issued in the Merger. TCB agrees to bear the expense of such a short form registration, but excluding commissions, discounts or other remuneration paid to underwriters or dealers in connection with the registration. The Stockholders will have the right to so direct TCB only once during the two year period and will have no such right thereafter. The obligations of TCB herein set forth are limited to the drafting, submission and processing of a short form registration statement and do not require TCB to arrange for the underwriting, distribution or sale of any securities.

(iv) Private Placement -- In the event the participating Stockholders so direct at any time during the two years immediately following the Merger, TCB will use its best efforts to find a purchaser or purchasers in a private placement of not less than 50,000 nor more than 100,000 of the shares of TCB Common Stock issued in the Merger. TCB agrees to bear the expense of such a private placement, but excluding commissions, discounts or other remuneration paid to brokers or dealers in connection therewith. The Stockholders will have the right to so direct TCB only once during the two year period and will have no such right thereafter. It is understood and agreed that TCB will attempt to find a purchaser or purchasers hereunder at the mean of the then current O-T-C inside quotations, and that TCB will be required to attempt to find a purchaser or purchasers hereunder only when such mean is $15.00 per share or less.

(v) The Stockholders at their sole discretion may determine to proceed either in accordance with the provisions at Paragraph 3.3 (iii) above or in accordance with the provisions at Paragraph 3.3(iv) above, but may

not determine to proceed under both procedures at the same time. A short form registration that becomes effective under Paragraph 3.3(iii) or a sale that is placed privately under Paragraph 3.3(iv), however, will not terminate the rights of the Stockholders under the other procedure.

3.4. Nothwithstanding the provisions set forth at Paragraph 3.3 above or elsewhere in this letter agreement, for a period of five years immediately following the effective date of the Merger any Stockholder who at the time owns beneficially or of record ten percent or more of the shares of TCB common stock then outstanding will not in any one transaction or in any combination of transactions:

(i) Sell for value, or otherwise surrender the sole voting or dispositive power for, more than 160,000 shares of TCB common stock during any consecutive 12 months without first offering all such shares in excess of the 160,000 limit to TCB on a right of first refusal basis;

(ii) Sell for value, or otherwise surrender the sole voting or dispositive power for, more than 320,000 shares of TCB common stock during any consecutive 24 months without first obtaining the written approval of a majority of the members of the TCB board of directors for the sale or surrender of all such shares in excess of the 320,000 limit;

(iii) Acquire more than 160,000 shares of TCB common stock during any consecutive 12 months without first obtaining the written approval of a majority of the members of the TCB board of directors for the acquisition of all such shares in excess of the 160,000 limit; or

(iv) Make or in any way participate in any solicitation of proxies to vote shares of TCB common stock in opposition to a solicitation by a majority of the members of the TCB board of directors concerning the election of directors, any amendment of TCB's certificate of incorporation or by-laws, or any transaction in the nature of a dissolution, consolidation, merger, reorganization, or recapitalization of TCB or a sale or transfer of substantially all of its assets.

3.5. The restrictions set forth at Paragraph 3.4 above apply not only to a ten percent Stockholder but also to:

(i) The successor in interest or collectively the successors in interest for any such deceased Stockholder; or

(ii) Actions taken directly or indirectly, either by such Stockholder himself or by such Stockholder acting in concert with any corporation, entity, person, or group (as defined at Section 13(d)(3) of the Securities Exchange Act of 1934).

3.6. The numbers set forth at Paragraphs 3.3 and 3.4 above for shares of TCB common stock shall be adjusted appropriately in the event TCB (i) pays a stock dividend or otherwise makes a distribution in shares of its capital stock, (ii) subdivides the outstanding shares of its common stock into a greater number of shares, (iii) combines the outstanding shares of its common stock into a smaller number of shares, (iv) issues by reclassificatic of the shares of its common stock any shares of its capital stock (other than by changing par value), or (v) causes like actions to be taken.

4. Employees, Officers and Directors. All employees of Knappton will become employees of New Knappton on the date the Merger becomes effective. Although it is anticipated that their employment will continue thereafter, the continued employment of corporate officers will be at the discretion of the board of directors of New Knappton and the continued employment of all other employees will be at the discretion of the corporate officers of New Knappton. All officers and directors of Knappton will submit their written resignations on the date the Merger becomes effective if so requested by TCB. Notwithstanding these provisions, it is understood that an employment agreement for a ten year term is contemplated between New Knappton and Mr. Peter J. Brix concerning his services as an executive officer and director of New Knappton, and that the initial board of directors of New Knappton will consist of three persons including Mr. Brix, one director to be designated by Mr. Brix, and one director to be designated by TCB.

5. News Releases. Any news release concerning the transactions described herein will be subject to the joint approval of TCB and Knappton. Related filings of TCB with the Securities and Exchange Commission and TCB's communications to its security holders will not be subject to such joint approval but copies thereof in final form will be furnished Knappton in the event it so requests.

6. Closing. It is our mutual desire to complete documentation for the transactions described herein and to close with all due speed, in order to make the Merger effective July 1, 1982 or as soon thereafter as possible.

7. Execution of Letter Agreement. It is understood that TCB and the Stockholders will have no obligation to each other hereunder unless this letter is executed and delivered by the Stockholders no later than July 1, 1982. Until so exectued and delivered, the letter will have no force or effect whatsoever, whether as an offer by TCB or otherwise, and unless so executed and delivered will have no force or effect in any event after July 1, 1982.

8. Commissions. No brokerage fees or other commissions have been or will be incurred by TCB, by the Stockholders, or by Knappton in connection with the various transactions described herein.

9. Preparation of Documents. TCB at its sole expense will prepare those documents that are to be executed by both TCB and Knappton (including the Stockholders whenever appropriate) in respect to the various transactions contemplated herein. TCB and Knappton (likewise including the Stockholders whenever appropriate), each at its sole expense, will prepare those documents that are to be executed only by it. Consummation of the transactions described herein is subject to approval of definitive documents in customary form by TCB, Knappton, and the Stockholders. It is hereby agreed, however, that no such approval will be unreasonably delayed or withheld and that TCB and the Stockholders will use their best efforts to cause the definitive documents to be approved so as to give effect to the terms and provisions set forth herein.

10. Costs and Expenses. TCB will be responsible for the payme of all reasonable charges for professional services and disbursement incurred on its behalf arising out of the various transactions contemplated herein. Similarly, Knappton and the Stockholders will be responsible for the payment of such charges incurred

on their behalf. TCB and Knappton (including whenever appropriate the Stockholders) will not be responsible to each other for any internal costs and expenses arising out of the various transactions.

ICC and Lenders. In the event ICC approval of the Merger or approval of the Merger by one or more of Knappton's lenders proves to be required, the closing of the Merger will be deferred upon the request of either TCB or Knappton until the required approvals are obtained. It is understood and agreed that each party hereto will take whatever action is possible to obtain such approvals and to expedite the approvals, including but not limited to the submission and prosecution of an application to the ICC and a request for an ICC exemptive order in the event the same are determined to be necessary or appropriate.

Please evidence your approval and acceptance of the provisions set forth herein by signing and returning a copy of this letter.

Yours very truly,

TWIN CITY BARGE, INC.

John M. Lambert

~~President~~ Chairman

APPROVED AND ACCEPTED:

STOCKHOLDERS OF KNAPPTON CORPORATION

Peter J. Brix

PALANTINE INVESTMENT CO.

By

Arthur A. Riedel

News Release

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July 1, 1982

Twin City Barge, Inc., South St. Paul, Minnesota, and Knappton Corporation, Portland, Oregon, have jointly announced the signing of an agreement in principle for the merger of Knappton, the largest barge line operating on the Columbia River, into a wholly-owned subsidiary of Twin City Barge.

John W. Lambert, Chairman and CEO of Twin City Barge, a major carrier of grain, oil, chemicals, and commodities on the Mississippi River System and the Gulf Intercoastal Waterway, said that the merger, expected to be effective soon after July 1, 1982, will be accomplished through exchanging approximately 831,000 shares of Twin City Barge common stock and cash in the amount of approximately $1,579,000 for all of the outstanding common stock of Knappton. Twin City Barge currently has 2,132,593 shares of common stock outstanding.

Peter J. Brix, the president and principal stockholder of Knappton, will continue to direct Knappton as Twin City Barge's West Coast profit center. Brix and an associate to be named by him will serve on the Twin City Barge board of directors.

Brix stated that "Knappton Corporation had consolidated sales of $34 million and a pre-tax income of $2.3 million for the year ended December 31, 1981." For the prior year, he added, "pre-tax income was $3.2 million on sales of $29 million."

Knappton, which is privately held, operates tugs and barges on the Columbia River, Puget Sound, and to Alaska and other West Coast ports. Columbia River Division operations consist of log towing, the barging of

- more -

grain, logs, wood chips, petroleum products, aggregate, containers, ship assisting, pilot launch service, and general commodities. Knappton also operates the container yards and dock facilities for the Ports of Lewiston, Idaho and Umatilla, Oregon.

Knappton's Puget Sound/Alaska Division operates ocean equipment moving rail car barges, petroleum products, chemicals, contractors' equipment, and containers to and from Alaska, Canada, and other West Coast ports. Knappton also provides support towing and barging services to the oil and construction industry's off-shore exploration programs in Prudhoe Bay, Alaska.

"The Knappton Corporation merger," Lambert said, "will give TCB both geographic and commodity diversification along with a proven management team. Top management was the most significant asset acquired in the merger. Knappton people are experienced and highly regarded in the Pacific Northwest."

Twin City Barge is a diversified company engaged in river transportation, barge construction and terminal operations. Its barging operations extend from the Twin Cities throughout the inland river system of the United States. In addition to barges, TCB also manufactures dredges and other types of marine equipment, and operates a major river terminal with a complete intermodal exchange between rail, truck and barge.

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